100th Congress, 2d Session - - - - - - - - - - House Document 100-182

AGREEMENT BETWEEN THE UNITED STATES AND THE KINGDOM OF THE NETHERLANDS ON SOCIAL SECURITY

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF THE NETHERLANDS ON SOCIAL SECURITY THAT CONSISTS OF TWO SEPARATE INSTRUMENTS: A PRINCIPAL AGREEMENT AND AN ADMINISTRATIVE ARRANGEMENT, PURSUANT TO 42 U.S.C. 433(e)(1)

APRIL 20, 1988.—Message and accompanying papers referred to the Committee on Ways and Means and ordered to be printed

---

U.S. GOVERNMENT PRINTING OFFICE

19-011 WASHINGTON : 1988

H780-4

To the Congress of the United States:

Pursuant to Section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (P.L. 95–216, 42 U.S.C. 433(e)(1)), I transmit herewith the Agreement between the United States of America and the Kingdom of the Netherlands on Social Security that consists of two separate instruments: A principal agreement and an administrative arrangement. The Agreement was signed at The Hague on December 8, 1987.

The U.S.-Netherlands Agreement is similar in objective to the social security agreements already in force with Belgium, Canada, the Federal Republic of Germany, Italy, Norway, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to overcome the problems of gaps in protection and of dual coverage and taxation for workers who move from one country to the other.

I also transmit for the information of the Congress a comprehensive report prepared by the Department of Health and Human Services, which explains the provisions of the Agreement and provides data on the number of persons affected by the Agreement and the effect on social security financing as required by the same provision of the Social Security Act.

The Department of State and the Department of Health and Human Services join with me in commending the U.S.-Netherlands Social Security Agreement and related documents.

RONALD REAGAN.

THE WHITE HOUSE, *April 20, 1988.*

AGREEMENT

BETWEEN THE UNITED STATES OF AMERICA

AND

THE KINGDOM OF THE NETHERLANDS

ON SOCIAL SECURITY

The Government of the United States of America and

The Government of the Kingdom of the Netherlands,

Being desirous of regulating the relationship between the two States in the field of Social Security, have agreed as follows:

PART I

General Provisions

Article 1

For the purposes of this Agreement:

1. "United States" means the United States of America and

   "Netherlands" means the Kingdom of the Netherlands;

2. "Territory" means,

   as regards the United States, the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa, and

   as regards the Netherlands, the territory of the Kingdom in Europe;

3. "National" means,

   as regards the United States, a national of the United States as defined in Section 101, Immigration and Nationality Act, as amended, and

as regards the Netherlands, a person of Netherlands nationality;

4. "Laws" means the laws and regulations specified in Article 2;

5. "Competent Authority" means,

as regards the United States, the Secretary of Health and Human Services, and

as regards the Netherlands, the Minister for Social Affairs and Employment;

6. "Agency" means,

as regards the United States, the Social Security Administration, and

as regards the Netherlands, any institution or authority charged with implementing all or part of the laws specified in Article 2, paragraph 1(b), as well as Netherlands tribunals that are competent for cases under those laws;

7. "Period of coverage" means a period of payment of contributions, a period of earnings from employment or self-employment or a period of residence, as defined or recognized as a period of coverage by the laws under which such period has been completed, or any similar period insofar as it is recognized by such laws as equivalent to a period of coverage;

8. "Benefit" means any benefit or pension provided for in the laws of either Contracting State, including any increase of, or any additional amount payable with, a benefit or pension;

9. Any term not defined in this Article shall have the meaning assigned to it in the laws which are being applied.

Article 2

1. This Agreement shall apply:

   (a) As regards the United States, to the laws governing the Federal Old-Age, Survivors and Disability Insurance Program:

      (i) Title II of the Social Security Act and regulations pertaining thereto, except sections 226, 226A and 228 of that title and regulations pertaining to those sections, and

      (ii) Chapter 2 and Chapter 21 of the Internal Revenue Code of 1986 and regulations pertaining to those chapters;

   (b) As regards the Netherlands, to the laws governing:

      (i) invalidity insurance;

      (ii) general old-age insurance;

      (iii) general widow's and orphan's insurance;

      (iv) sickness insurance (cash benefits and benefits in kind);

      (v) unemployment insurance;

      (vi) children's allowances.

2. The application of this Agreement shall be extended to future legislation of a Contracting State which creates new categories of beneficiaries under the laws specified in paragraph 1 unless the Competent Authority of that Contracting State notifies the Competent Authority of the other Contracting State in writing within three months of the date of the official publication of the new legislation that no such extension of the Agreement is intended.

3. Unless otherwise provided in this Agreement, the laws referred to in paragraph 1 shall not include any treaty or other international agreement or supranational legislation on social security which may be in force between either Contracting State and a third State, or laws or regulations promulgated for their specific implementation.

4. This Agreement shall not apply to social or medical assistance schemes or to special schemes for civil servants or persons treated as such.

Article 3

Unless otherwise provided, this Agreement shall apply to all persons who are or have been subject to the laws of one or both Contracting States as well as to family members and survivors of such persons insofar as they derive their rights from these persons.

Article 4

1. Except as provided in paragraph 2, the following persons, while residing in the territory of a Contracting State, shall be equated with nationals of that State in the application of its laws:

   (a) nationals of the other Contracting State;

   (b) refugees as defined in Article 1 of the Convention relating to the Status of Refugees of July 28, 1951, and in paragraph 1 of Article 1 of the Protocol of January 31, 1967, to the said Convention;

   (c) stateless persons as defined in Article 1 of the Convention relating to the Status of Stateless Persons of September 28, 1954;

(d) family members and survivors, irrespective of their nationality, of the persons mentioned under subparagraphs (a), (b) and (c) with regard to rights which they derive from such persons.

2. Paragraph 1 shall not apply with regard to United States laws on compulsory coverage.

Article 5

Unless otherwise provided in this Agreement, any provision of the laws of a Contracting State which restricts payment of invalidity, old-age or survivors cash benefits solely because a person resides outside or is absent from the territory of that Contracting State shall not be applicable to persons who reside in the territory of the other Contracting State.

PART II

Provisions Concerning Applicable Laws

Article 6

Unless otherwise provided in this Part, a person employed within the territory of a Contracting State shall, with respect to that employment, be subject to the laws of only that Contracting State, even if the person concerned resides in the territory of the other Contracting State, or if his employer or the offices of the employer are located in the territory of the other Contracting State.

Article 7

A self-employed person who resides within the territory of a Contracting State shall be subject to the laws of only that State.

Article 8

Unless otherwise provided in Article 9, if a person resides in the territory of the Netherlands and is engaged in employment or self-employment in that territory, the person shall be subject only to Netherlands laws with respect to any employment or self-employment performed in the territory of either Contracting State.

Article 9

1. Where a person in the service of an employer having a place of business in the territory of a Contracting State is sent from that territory by that employer to work in the territory of the other Contracting State for a period not expected to exceed 5 years, the person shall remain subject to the laws of only the first Contracting State as if he were employed in the territory of the first Contracting State.

2. Paragraph 1 shall not apply in the case of a person who is sent by an employer from the territory of the United States to the territory of the Netherlands if the person is also employed in the territory of the Netherlands by a different employer located in that territory.

3. If, under paragraph 1, a person continues to be subject to the laws of a Contracting State from whose territory he has been sent to the territory of the other Contracting State, that paragraph shall also apply by analogy to the person's family members who accompany him, unless they are themselves employed or self-employed in the territory of the latter Contracting State.

Article 10

1. (a) If a person is employed as an officer or member of the crew on an American vessel and is covered under the laws of both Contracting States, the person shall be subject to the laws of only the United States.

   (b) If a person is employed as an officer or member of the crew on a non-American vessel and is covered under the laws of both Contracting States, the person shall be subject to the laws of only the Netherlands.

2. If a person is employed as an officer or member of the crew on an aircraft and is covered under the laws of both Contracting States, the person shall be subject to the laws of only the Contracting State in whose territory the employer is headquartered.

Article 11

Where the same activity is considered to be self-employment under the laws of one Contracting State and employment under the laws of the other Contracting State, that activity shall be treated according to the provisions of this Part concerning self-employment if the person is a resident of the first Contracting State and according to the provisions of this Part concerning employment in any other case.

Article 12

1. This Agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, or of the Vienna Convention on Consular Relations of April 24, 1963.

2. Nationals of one of the Contracting States who are employed by the Government of that Contracting State in the territory of the other Contracting State but who are not exempt from the laws of the other Contracting State by virtue of the Conventions mentioned in paragraph 1 shall be subject to the laws of only the first Contracting State. For the purposes of this paragraph, employment by the United States Government includes employment by an instrumentality thereof.

3. The provisions of paragraph 2 shall apply by analogy to the family members accompanying the persons referred to in that paragraph who are sent by the Government of a Contracting State to the territory of the other Contracting State, unless these family members themselves are employed or self-employed in the territory of the other Contracting State.

Article 13

For the purposes of Netherlands laws, a person who is subject to Netherlands laws in accordance with this Part shall be considered to be resident in the territory of the Netherlands, and a person who is subject to United States laws in accordance with this Part shall be considered not to be resident in that territory.

Article 14

The Competent Authorities of the two Contracting States may agree to grant an exception to the provisions of this Part in the interest of any person or category of persons, provided that the affected person shall be subject to the laws of one of the Contracting States.

PART III

Provisions on Benefits

Chapter A

Provisions Applicable to the United States

Article 15

1. Where a person has completed at least six quarters of coverage under United States laws, but does not have sufficient quarters of coverage to satisfy the requirements for entitlement to benefits under United States laws, the agency of the United States shall take into account, for the purpose of establishing entitlement to benefits under this Article, periods of coverage which are credited under the laws of the Netherlands and which do not coincide with periods of coverage already credited under United States laws.

2. In applying paragraph 1, the agency of the United States shall not take into account periods of coverage which are credited under Netherlands laws solely on the basis of periods of residence in the territory of the Netherlands.

3. In determining eligibility for benefits under paragraph 1 of this Article, the agency of the United States shall credit one quarter of coverage for every three months of coverage certified by the agency of the Netherlands; however, no quarter of coverage shall be credited for any calendar quarter already credited as a quarter of coverage under United States laws. The total number of quarters of coverage to be credited for a year shall not exceed four.

4. Where entitlement to a benefit under United States laws is established according to the provisions of paragraph 1, the agency of the United States shall compute a pro rata Primary Insurance Amount in accordance with United States laws based on (a) the person's average earnings credited exclusively under United States laws and (b) the ratio of the duration of the person's periods of coverage completed under United States laws to the duration of a coverage lifetime as determined in accordance with United States laws. Benefits payable under United States laws shall be based on the pro rata Primary Insurance Amount.

5. Entitlement to a benefit from the United States which results from paragraph 1 shall terminate with the acquisition of sufficient periods of coverage under United States laws to establish entitlement to an equal or higher benefit without the need to invoke the provisions of paragraph 1.

Chapter B

Provisions Applicable to the Netherlands

Article 16

Invalidity Benefit

1. If a national of one of the Contracting States or a person designated in Article 4, paragraph 1(b) or (c), was subject to United States laws at the time when incapacity for work followed by invalidity occurred and had previously completed a total of at least 12 months of coverage under the Netherlands laws on invalidity insurance, he shall be entitled to a benefit determined in accordance with those Netherlands laws and calculated according to the rules of paragraphs 3 to 7.

2. For purposes of paragraph 1, a person shall be considered to be subject to United States laws if the person is insured for a benefit under such laws or has credit for at least 4 quarters of coverage under such laws during a period of 8 calendar quarters ending with the calendar quarter in which the incapacity for work followed by invalidity occurred as determined in accordance with Netherlands laws.

3. The amount of the benefit referred to in paragraph 1 shall be calculated in proportion to the ratio of the total length of the periods of coverage completed by the person concerned under Netherlands laws after the age of 15 years to the length of the period between the date on which he reached the age of 15 years and the date of his incapacity for work followed by invalidity.

4. If, at the time when incapacity for work followed by invalidity occurred, the person concerned was an employed person or a person treated as such, the benefit due shall be determined according to the Disablement Insurance Act of February 18, 1966 (WAO). If not, the benefit due shall be determined according to the General Disablement Benefits Act of December 11, 1975 (AAW).

5. The following shall be considered as periods of coverage completed under Netherlands laws:

   (a) periods of coverage completed during employment under the Disablement Insurance Act of February 18, 1966 (WAO);

   (b) periods of coverage completed during self-employment under the General Disablement Benefits Act of December 11, 1975 (AAW);

   (c) periods of employment and periods treated as such completed in the Netherlands before July 1, 1967.

6. In cases referred to in the first sentence of paragraph 4, when a period of coverage under the WAO coincides with a period of coverage under the AAW, only the period completed under the WAO shall be taken into account.

7. In cases referred to in the second sentence of paragraph 4, when a period of coverage under the AAW coincides with a period of coverage under the WAO, only the period completed under the AAW shall be taken into account.

Article 17

Old-age Pension

1. The Netherlands agency shall determine the amount of the pension directly and exclusively on the basis of the periods of coverage completed under the Netherlands law mentioned in Article 2, paragraph 1(b)(ii).

2. Periods before January 1, 1957 during which a national of one of the Contracting States or a person described in Article 4, paragraph 1(b) and (c) resided in the territory of the Netherlands after reaching the age of 15 years or during which, while residing in another country, the person was gainfully employed in the territory of the Netherlands shall also be considered as periods of coverage if the person does not satisfy the conditions of the Netherlands law permitting such periods to be treated for that person as periods of coverage.

3. The periods referred to in paragraph 2 shall only be taken into consideration for calculation of the old-age pension if the person concerned has resided for at least 6 years in the territory of one or both Contracting States after reaching the age of 59 years and only while the person is residing in the territory of either Contracting State. However, these periods shall not be taken into consideration if they coincide with periods taken into consideration for the calculation of an old-age pension under the legislation of a country other than the Netherlands.

Article 18

Survivors Pension

1. If a national of one of the Contracting States or a person designated in Article 4, paragraph 1(b) or (c), was subject to United States laws at the time of his death and had previously completed a total of at least 12 months of coverage under the Netherlands law on widows and orphans insurance, his widow or orphans shall be entitled to a benefit determined in accordance with Netherlands law and calculated in accordance with the rules of paragraph 3.

2. For purposes of paragraph 1, a person shall be considered to be subject to United States laws if the person is insured for a benefit under such laws or has credit for at least 4 quarters of coverage under such laws during a period of 8 calendar quarters ending with the calendar quarter in which the person died.

3. The amount of the benefit referred to in paragraph 1 shall be calculated in proportion to the ratio of the total length of the periods of coverage completed by the deceased under Netherlands law before he reached the age of 65 years to the length of the period between the date on which he reached the age of 15 years and the date of his death, but at the latest the date on which he reached the age of 65 years.

PART IV

Miscellaneous Provisions

Article 19

The Competent Authorities of the two Contracting States shall:

(a) Make all necessary administrative arrangements for the application of this Agreement;

(b) Designate liaison bodies in their respective territories to facilitate the application of this Agreement;

(c) Communicate to each other information concerning the measures taken for the application of this Agreement; and

(d) Communicate to each other, as soon as possible, information concerning all changes in their respective laws which may affect the application of this Agreement.

Article 20

The Competent Authorities and the agencies of the Contracting States, within the scope of their respective authority, shall assist each other in implementing this Agreement.

Article 21

Any application, appeal or other document which according to the laws of a Contracting State must be submitted within a specified period to the Competent Authority or an agency of that Contracting State, but which is instead submitted within the same period to the Competent Authority or an agency of the other Contracting State shall be considered to have been submitted on time. In such case, the Competent Authority or agency with which the application, appeal or document has been filed shall indicate the date of receipt on the document and transmit it without delay to the liaison body of the other Contracting State.

Article 22

1. A written application for benefits filed with an agency of one Contracting State shall protect the rights of the claimants under the laws of the other Contracting State if the applicant requests that it be considered an application under the laws of the other Contracting State.

2. If an applicant has filed a written application for benefits with the agency of one Contracting State and has not specifically restricted the application to benefits under the laws of that State, the application shall also protect the rights of the claimants under the laws of the other Contracting State if the applicant provides information at the time of filing indicating that the person on whose record benefits are claimed has completed periods of coverage under the laws of the other Contracting State.

Article 23

Where the laws of a Contracting State provide that any document which is submitted to the Competent Authority or an agency of that Contracting State shall be exempted, wholly or partly, from fees or charges, including consular and administrative fees, the exemption shall also apply to corresponding documents which are submitted to the Competent Authority or an agency of the other Contracting State in the application of this Agreement.

Article 24

1. The Competent Authorities and agencies of the Contracting States may correspond directly with each other and with any person wherever the person may reside whenever it is necessary for the administration of this Agreement. The correspondence may be in the English or Dutch language.

2. The Competent Authority and agencies of a Contracting State may not reject applications or other documents solely on the grounds that they are written in a foreign language, provided they are in the English or Dutch language.

Article 25

1. Payments under this Agreement may be validly made in the currency of the Contracting State making the payment.

2. Money transfers effected under this Agreement shall be made in accordance with any relevant agreements in force between both Contracting States at the time of transfer.

3. In case provisions designed to restrict the exchange or exportation of currencies are introduced by either Contracting State, the Governments of both Contracting States shall immediately decide on the measures necessary to insure the transfer of sums owed by either Contracting State under this Agreement.

Article 26

1. Disputes between the two Contracting States regarding the interpretation or application of this Agreement shall, as far as possible, be settled by the Competent Authorities.

2. If such a dispute cannot be settled within a period of six months, either Contracting State may submit the matter to binding arbitration by an arbitral tribunal whose composition and procedure shall be agreed upon by the Contracting States. The decision of the arbitral tribunal shall be final and binding upon the Contracting States.

Article 27

This Agreement may be amended in the future by supplementary agreements which, from their entry into force, shall be considered an integral part of this Agreement. Such supplementary agreements may be given retroactive effect if they so specify.

PART V

Transitional and Final Provisions

Article 28

1. This Agreement shall also apply to events relevant to rights under the laws of either Contracting State which occurred prior to its entry into force. However, no benefits shall be payable under this Agreement for any period prior to its entry into force, nor shall a lump-sum death benefit be payable if the person died before its entry into force. Nevertheless, periods of coverage completed before the entry into force of this Agreement shall be taken into account in determining benefit rights, except that neither State shall take into account periods of coverage which occurred prior to the earliest date for which periods of coverage may be credited under its laws.

2. Determinations made before the entry into force of this Agreement shall not affect rights arising under it.

3. The application of this Agreement shall not result in any reduction in the amount of benefits to which entitlement was established prior to its entry into force.

4. The provisions of this Agreement shall apply only to an application for benefits which is filed on or after the date this Agreement enters into force.

5. The period of work referred to in Article 9, paragraph 1, shall be measured no earlier than the date on which this Agreement enters into force.

Article 29

Both Contracting States shall notify each other in writing of the completion of their respective statutory and constitutional procedures required for the entry into force of this Agreement. This Agreement shall enter into force on the first day of the third month following the date of the last notification.

Article 30

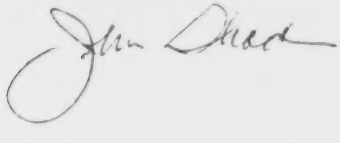
1. This Agreement shall remain in force and effect until the expiration of one calendar year following the year in which written notice of its termination is given by one of the Contracting States to the other Contracting State.

2. If this Agreement is terminated, rights regarding entitlement to or payment of benefits acquired under it shall be retained; the Contracting States shall make arrangements dealing with rights in the process of being acquired.

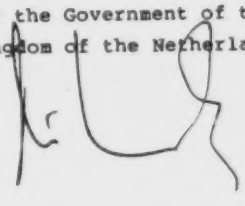
In witness whereof, the undersigned, being duly authorized thereto, have signed the present Agreement.

Done at The Hague on 3 December in 1987 duplicate in the English and Dutch languages, both texts being equally authentic.

For the Government of the United States of America:



For the Government of the Kingdom of the Netherlands:



ADMINISTRATIVE ARRANGEMENT

FOR THE IMPLEMENTATION OF THE AGREEMENT

BETWEEN THE UNITED STATES OF AMERICA AND

THE KINGDOM OF THE NETHERLANDS ON SOCIAL SECURITY

Pursuant to Article 19(a) of the Agreement between the United States of America and the Kingdom of the Netherlands on Social Security, concluded on 9 December 1987, the Competent Authorities:

for the United States of America,

the Secretary of Health and Human Services

for the Netherlands,

the Minister for Social Affairs and Employment

have agreed on the following provisions:

CHAPTER I

General Provisions

Article 1

1. For the application of this Administrative Arrangement, "Agreement" means the Agreement between the United States of America and the Kingdom of the Netherlands on Social Security.

2. Other terms shall have the meaning given to them in the Agreement.

Article 2

1. The following are designated as liaison bodies, pursuant to Article 19(b) of the Agreement:

   For the United States:
   the Social Security Administration;

   For the Netherlands:

   a. as regards old-age, widows and orphans insurance:

      Sociale Verzekeringsbank (Social Insurance Bank);

   b. as regards invalidity insurance:

      Gemeenschappelijk Administratiekantoor (Joint Administration Office).

2. The liaison bodies of the Contracting States shall agree on joint forms and procedures necessary to implement the Agreement.

3. For the application of the Agreement, the liaison bodies may communicate directly with each other as well as with any person wherever the person may reside.

Article 3

The Netherlands agency competent for the application of Article 16 of the Agreement shall be the Nieuwe Algemene Bedrijfsvereniging (New General Professional Association).

CHAPTER II

Provisions Concerning Applicable Laws

Article 4

1. For the purposes of this Article, "institution" means, as regards the United States, the Social Security Administration, and, as regards the Netherlands, the Sociale Verzekeringsraad (Social Insurance Council).

2. When the laws of a Contracting State are applicable in accordance with Part II of the Agreement, the institution of that Contracting State, upon request of an employed person, the employer of that person or a self-employed person, shall issue a certificate stating that the employed person or self-employed person is subject to those laws. This certificate shall be proof that the named person is exempt from the laws on compulsory coverage of the other Contracting State.

3. When an employed person described in Article 9, paragraph 2, of the Agreement, to whom a certificate has been issued under paragraph 2 by the institution of the United States, subsequently becomes employed in the territory of the Netherlands by a different employer located in that territory, the employed person must, without delay, inform the institution of the United States. This institution shall thereupon issue an amended certificate and inform the institution of the Netherlands.

4. When Article 9, paragraph 3, or Article 12, paragraph 3, of the Agreement applies to a family member of an employed person sent from the territory of the Netherlands to the territory of the United States and

that family member subsequently becomes employed or self-employed in the territory of the United States, this family member must without delay inform the institution of the Netherlands.

5. The institution of the Contracting State which has issued a certificate under this Article shall send copies of it to the employed person and the employer of that person or the self-employed person and, as needed, the institution of the other Contracting State.

CHAPTER III

Provisions on Benefits

Article 5

1. The agency of the Contracting State with which an application for benefits is first filed in accordance with Article 22 of the Agreement shall inform the appropriate agency of the other Contracting State of this fact without delay, either directly or by way of the liaison body, and provide such evidence and other documentation available to it as may be necessary for the agency of the other Contracting State to complete action on the claim.

2. The agency of a Contracting State which receives an application that was first filed with an agency of the other Contracting State shall without delay provide the latter agency, either directly or by way of the liaison body of the other Contracting State, with such evidence and other available information as may be required to complete action on the claim.

3. The agency of the Contracting State with which an application for benefits has been filed shall verify the accuracy of the information pertaining to the applicant and his family members. The types of information to be verified shall be agreed upon by the liaison agency.

CHAPTER IV

Miscellaneous Provisions

Article 6

In accordance with measures to be agreed upon by the liaison bodies of the Contracting States pursuant to Article 2 of this Administrative Arrangement, the agency of one Contracting State shall, upon request of the liaison body of the other Contracting State, furnish available information relating to the claim of any specified individual for the purpose of administering the Agreement.

Article 7

Copies of documents which are certified as true and exact copies by the agency of one Contracting State shall be accepted as true and exact copies by the agency of the other Contracting State, without further certification. When applying its laws, the agency of each Contracting State shall be the final judge of the probative value of the evidence submitted to it from whatever source.

Article 8

The institutions designated in Article 4 of this Administrative Arrangement shall exchange statistics on the number of certificates issued under the said Article and on the payments made to beneficiaries under the Agreement. These statistics shall be furnished annually in a form to be agreed upon.

Article 9

1. Where administrative assistance is requested under Article 20 of the Agreement, expenses other than regular personnel and operating costs of the agencies providing the assistance shall be reimbursed.

2. Upon request, the agency of either Contracting State shall furnish without expense to the agency of the other Contracting State any medical information and documentation in its possession relevant to the disability of the claimant or beneficiary.

3. An agency of a Contracting State may require a claimant or beneficiary who is present in the territory of the other Contracting State to undergo a medical examination in the territory of either Contracting State.

4. Amounts owed under paragraph 1 shall be reimbursed upon presentation of a detailed statement of expenses.

Article 10

Unless authorized by the national statutes of a Contracting State, information about an individual which is transmitted

in accordance with the Agreement or this Administrative Arrangement shall be used exclusively for purposes of implementing the Agreement. Such information received by an agency, a liaison body or an institution of a Contracting State shall be governed by the national statutes of that Contracting State for the protection of privacy and confidentiality of personal data.

Article 11

This Administrative Arrangement shall enter into force on the date of entry into force of the Agreement and shall have the same period of validity.

Done at The Hague on 8 December 1987 in duplicate in the English and Dutch languages, both texts being equally authentic.

For the Competent Authority
of the United States of America:

For the Competent Authority
of the Kingdom of the Netherlands:

REPORT TO CONGRESS
TO ACCOMPANY THE SOCIAL SECURITY AGREEMENT
BETWEEN THE UNITED STATES AND THE NETHERLANDS

I. INTRODUCTION

The social security agreement between the United States and the Netherlands is intended to provide limited coordination of the old-age, survivors, and disability insurance (OASDI) programs of the two countries. The agreement is similar in content and objective to agreements already in force between the United States and Belgium, Canada, the Federal Republic of Germany, Italy, Norway, Sweden, Switzerland and the United Kingdom.

The U.S.-Netherlands agreement consists of two separate instruments: (1) a principal agreement setting forth the basic rules for coordinating the two countries' social security systems; and (2) an administrative arrangement establishing policies and procedures to implement the principal agreement. These two documents, which were signed by representatives of the U.S. and Netherlands Governments on December 8, 1987, are now being submitted to Congress for review in accordance with section 233(e) of the Social Security Act.

The U.S.-Netherlands agreement would eliminate dual social security coverage and taxation, the situation that now exists when a person from one country works in the other country and is covered under and required (along with the person's employer) to pay contributions to the social security systems of both countries for the same work. In addition to eliminating dual coverage, the agreement would help prevent situations where workers suffer a loss of benefit rights merely because they have divided their careers between the two countries.

Accompanying this report are paragraph-by-paragraph explanations of the provisions of the principal agreement (Annex A) and related administrative arrangement (Annex B). A report required by section 233(e)(1) of the Social Security Act on the effect of the agreement on income and expenditures of the U.S. Social Security program and the number of individuals affected by the agreement is also included (Annex C).

H.DOC. 100-182 0 - 88 - 3

II. STATUTORY REQUIREMENTS

Section 233(c)(1) of the Social Security Act requires that international agreements concluded pursuant to that section provide for the elimination of dual coverage of the same work under the social security systems of the United States and the other country party to the agreement, and for combining credits earned by a worker under the two systems for benefit eligibility purposes. In addition, the law stipulates that when eligibility for U.S. Social Security benefits is established on the basis of combined credits, the amount of the benefit payable must be based on the proportion of the worker's periods of coverage completed under title II of the Social Security Act. The U.S.-Netherlands agreement includes these required provisions.

III. COVERAGE PROVISIONS

In conformity with section 233(c)(1)(B) of the Social Security Act, Part II of the principal agreement sets forth rules designed to eliminate dual coverage and taxation of the same work under the U.S. and Netherlands social security systems.

A. Rules Governing Employees

The rules which apply to employed persons provide that dual coverage under the laws of the United States and the Netherlands would be eliminated generally by maintaining an employee's coverage under the system of the country where the work is performed and exempting the employee from compulsory coverage under the system of the other country.

Special rules would apply, however, for employees who are temporarily transferred by their employer in one country to work in the other country for a period of 5 years or less. In these cases, an employee who was covered in one country before his transfer would continue to be covered under that country's system and would be exempt from coverage in the other country. Thus, a person working in the United States who is temporarily transferred by his employer to the Netherlands would only be covered under and pay contributions to the U.S. program, and he and his employer would be relieved of the additional burden of paying social security contributions to the Netherlands program.

Other rules set forth in this Part would apply to persons employed by the Governments of the two countries and to persons employed in international air and ship transportation.

B. Rules Governing Self-employed Persons

Part II also contains rules applicable to persons whose earnings from self-employment would be subject to compulsory coverage and contributions under the laws of both countries. Under these rules, a self-employed resident of the Netherlands whose earnings would otherwise be dually covered will be covered only under the laws of the Netherlands. A dually covered U.S. resident would be covered only under U.S. laws.

IV. BENEFIT PROVISIONS

Part III of the principal agreement establishes the basic rules for determining entitlement to and the amount of U.S. and Netherlands benefits for persons who have worked in both countries. These benefit provisions are included pursuant to sections 233(c)(1)(A) and (C) of the Social Security Act.

A. Provisions Applicable to the United States

1. Totalization of Periods of Coverage

Under the rules which apply to the United States, if a worker has credit for at least 6 quarters of coverage under the U.S. Social Security program but not enough credits to qualify for a U.S. benefit, the worker's coverage credits from both countries could be totalized (i.e., combined) to permit him or her to qualify for a partial U.S. benefit. Since periods of coverage under the Netherlands social security program are measured in terms of months, the United States would credit one quarter of coverage for every three months of Netherlands coverage in a calendar year. The United States would not, however, credit months of coverage under Netherlands law if they coincide with quarters of coverage already credited under the U.S. system.

2. Computation of U.S. Totalization Benefit Amounts

The amount of a U.S. benefit for which a person may qualify based on totalized periods of coverage depends on both the duration of the worker's coverage under U.S. Social Security and the level of his earnings. A detailed description of the totalization benefit computation procedure is contained in regulations of the Department of Health and Human Services (20 CFR 404.1918). The first step in the procedure is to compute a theoretical benefit amount as though the worker had worked a full coverage lifetime (i.e., a full career) under U.S. Social Security at the same earnings level as during his actual periods of U.S. covered work. The theoretical benefit is then prorated to reflect the proportion of a coverage lifetime the worker completed under the U.S. program. A coverage lifetime is defined in the regulations as the number of the worker's benefit computation years, i.e., the years which must be used in determining a worker's average earnings under the regular U.S. national computation method.

B. Provisions Applicable to the Netherlands

1. Netherlands Benefits

The Netherlands provides old-age, survivors, and basic disability benefits under several social security laws which are known collectively as the "National Insurance Schemes" (NIS). In addition, it pays supplementary earnings-related disability benefits to qualified workers under a separate set of laws called the "Employed Persons Insurance Schemes" (EPIS).

There are no minimum coverage requirements for old-age, survivors, or disability benefits under the NIS or for the supplementary disability pension under the EPIS. To qualify for NIS survivors or disability benefits, however, a person generally must reside in the Netherlands at the time of death or disability onset. In addition, to qualify for EPIS disability benefits, a person must have been working in covered employment at the time of disability onset. As explained below, the agreement will permit persons to meet these requirements based on periods of U.S. Social Security coverage.

2. Agreement Provisions

Because the Netherlands OASDI programs have no minimum coverage requirements for benefit eligibility, the agreement does not provide for totalization of U.S. and Netherlands coverage credits for the purpose of establishing entitlement to Netherlands benefits. Under the agreement, however, a person's periods of U.S. Social Security coverage would be taken into account for purposes of meeting the current-residence and current-coverage requirements for disability and survivors benefits under Netherlands laws. A worker credited with at least 12 months of coverage under Netherlands laws would be deemed to have met these requirements if, at the time of disability onset or death, he or she (1) had credit for at least four quarters of U.S. coverage during the 8 calendar quarters ending with the calendar quarter of disability onset or death, or (2) was insured for a U.S. Social Security benefit.

Where eligibility is established based on U.S. Social Security coverage, the Netherlands would determine a theoretical survivors or disability benefit as if the person had been covered under Netherlands law at the time of death or disability onset. To compute the amount actually payable, the theoretical benefit would be multiplied by the ratio of (1) the person's periods of Netherlands coverage before age 65 to (2) the period beginning with the date on which the person attained age 15 up to the date of disability onset or, in the case of survivors benefits, up to the date of death or attainment of age 65, whichever is earliest.

C. Benefit Portability

Section 233(c)(2) of the Social Security Act permits agreements to contain provisions suspending the application of the alien nonpayment provisions of the Social Security Act (section 202(t)) for persons residing in a foreign country with which the United States has an agreement in force.

Netherlands nationals outside the United States, including those residing in the Netherlands, are already exempt from the nonpayment provisions of section 202(t)(1) in accordance with sections 202(t)(2) and (3). However, citizens of certain other countries who reside in the Netherlands may not be exempt from these nonpayment provisions of the Social Security Act. The agreement, therefore, would provide an exemption from the nonpayment provisions of section 202(t)(1) for insured persons and their dependents or survivors, regardless of their citizenship, if they reside in the Netherlands.

Under section 202(t)(11), benefits generally may not be paid to nonresident aliens who first become eligible for title II dependent or survivor benefits after 1984, unless they satisfy certain U.S. residency requirements, or they are citizens or residents of a country with which the United States has an agreement in force pursuant to section 233 of the Social Security Act. Once the U.S.-Netherlands social security agreement enters into force, citizens or residents of the Netherlands will no longer be subject to this nonpayment provision.

The agreement would also guarantee that U.S. residents who have been covered under the Netherlands social security program, as well as their family members and survivors, could qualify for and receive Netherlands benefits without regard to their nationality.

V. OTHER PROVISIONS

Section 233(c)(4) of the Social Security Act authorizes agreements to contain other provisions not inconsistent with title II of the Act which are appropriate to carry out the purposes of the agreements. In accordance with this provision, the principal agreement and administrative arrangement contain a number of articles designed to permit the United States and the Netherlands to render free or reimbursable assistance to the other country in implementing the agreement.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA
AND THE KINGDOM OF THE NETHERLANDS
ON SOCIAL SECURITY

The Government of the United States of America and

The Government of the Kingdom of the Netherlands,

Being desirous of regulating the relationship between the two States in the field of Social Security, have agreed as follows:

This document is described as an "Agreement", with the understanding that it will enter into force for the Netherlands as a formal treaty subject to parliamentary ratification and for the United States as an executive agreement under authority of section 233 of the Social Security Act. Upon entry into force, the Agreement will have the effect of law in both countries and will be binding on both countries.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

PART I

General Provisions

Article 1

For the purposes of this Agreement:

1. "United States" means the United States of America and

   "Netherlands" means the Kingdom of the Netherlands;

2. "Territory" means,

   as regards the United States, the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa, and

   as regards the Netherlands, the territory of the Kingdom in Europe;

3. "National" means,

   as regards the United States, a national of the United States as defined in Section 101, Immigration and Nationality Act, as amended, and

   as regards the Netherlands, a person of Netherlands nationality;

Article 1 defines key terms used in the Agreement.

Article 1.1 permits abbreviated reference to the "United States of America" and the "Kingdom of the Netherlands" in the Agreement.

Article 1.2 defines the territory of the United States and the Netherlands for purposes of applying the Agreement. The definition of United States "territory" is identical to the definition of "United States" in section 210(i) of the Social Security Act.

For purposes of the Agreement, the "territory" of the Netherlands means Netherlands territory on the continent of Europe. Although the Netherlands Antilles are part of the Kingdom of the Netherlands, the islands have a separate social security system governed by laws to which this Agreement does not apply.

Under section 101 of the Immigration and Nationality Act, "the term national of the United States means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States." Those in category (B) include natives of American Samoa and Swain's Island. A Dutch national means any person who is accorded nationality by the Netherlands, including, but not limited to, a person who carries a valid Netherlands passport or other valid identity document designating the person as a Netherlands national.

PRINCIPAL AGREEMENT	ANNOTATIONS AND COMMENTS
4. "Laws" means the laws and regulations specified in Article 2;	The term "laws", as used in the Agreement, refers to the social security laws and regulations of each country as specified in Article 2. Article 2.1(a) specifies the U.S. laws to which the Agreement applies.
5. "Competent Authority" means, as regards the United States, the Secretary of Health and Human Services, and as regards the Netherlands, the Minister for Social Affairs and Employment;	"Competent Authority", as used throughout this Agreement, refers to the Government official in each country with ultimate responsibility for administering the social security program, including the provisions of the Agreement.
6. "Agency" means, as regards the United States, the Social Security Administration, and as regards the Netherlands, any institution or authority charged with implementing all or part of the laws specified in Article 2, paragraph 1(b), as well as Netherlands tribunals that are competent for cases under those laws;	"Agency", as used in the Agreement, refers to the administrative body in each country responsible for taking and processing claims and making determinations of coverage under each country's social security laws. The Social Security Administration (SSA) is the agency for the United States. However, the U.S. Internal Revenue Service's responsibility for determining Social Security tax liability in light of SSA coverage determinations under the Agreement is not affected. In the Netherlands, there are many separate agencies responsible for administering the various branches of social security. The National Tax Department and industrial insurance boards are responsible for collecting contributions. Claims for old-age and survivors benefits and family allowances are handled by the Social Insurance Bank (Sociale Verzekeringsbank). Disability claims are processed by the Joint Administration Office (Gemeenschappelijk Administratiekantoor) and the industrial insurance boards. Any one of these offices may be the "agency" for purposes of administering the Agreement in a particular case. In addition, the Netherlands social security system includes special courts, or tribunals, with jurisdiction over social security matters. For purposes of this Agreement (in particular, article 21), such a court will be considered to be an agency of the Netherlands.

PRINCIPAL AGREEMENT	ANNOTATIONS AND COMMENTS
7. "Period of coverage" means a period of payment of contributions, a period of earnings from employment or self-employment or a period of residence, as defined or recognized as a period of coverage by the laws under which such period has been completed, or any similar period insofar as it is recognized by such laws as equivalent to a period of coverage;	The term "period of coverage" means any period which is credited under the laws of either country for purposes of determining benefit eligibility, including periods of covered employment or self-employment. In addition, periods of coverage under Netherlands laws include periods credited on the basis of residence in the Netherlands.
8. "Benefit" means any benefit or pension provided for in the laws of either Contracting State, including any increase of, or any additional amount payable with, a benefit or pension;	"Benefit" refers to old-age, survivors, and disability benefits provided under the social security laws of either country. The term "benefit" also includes the lump-sum death payment under section 202(i) of the U.S. Social Security Act, but excludes special age-72 payments provided for certain uninsured persons under section 228 of the Social Security Act.
9. Any term not defined in this Article shall have the meaning assigned to it in the laws which are being applied.	Each country shall assign to any undefined terms used in the Agreement the same meaning as they are given under its national laws.
Article 2	
1. This Agreement shall apply:	Article 2 specifies the laws to which the Agreement applies.
(a) As regards the United States, to the laws governing the Federal Old-Age, Survivors and Disability Insurance Program:	For the United States, the Agreement applies to title II of the U.S. Social Security Act and the corresponding tax laws (the Federal Insurance Contributions Act--FICA--and the Self-employment Contributions Act of 1954--SECA), and any regulations pertaining to those laws. However, the Agreement does not apply to Medicare provisions (section 226 and 226A of the Social Security Act) or provisions for special payments to uninsured persons age 72 and older under section 228 of the Social Security Act. Persons to whom the Agreement applies who qualify independently for Medicare hospital insurance or age-72 payments will be entitled to receive such benefits.
(i) Title II of the Social Security Act and regulations pertaining thereto, except sections 226, 226A and 228 of that title and regulations pertaining to those sections, and	
(ii) Chapter 2 and Chapter 21 of the Internal Revenue Code of 1986 and regulations pertaining to those chapters;	

(b) As regards the Netherlands, to the laws governing:

(i) invalidity insurance;

(ii) general old-age insurance;

(iii) general widow's and orphan's insurance;

(iv) sickness insurance (cash benefits and benefits in kind);

(v) unemployment insurance;

(vi) children's allowances.

The laws governing social insurance programs in the Netherlands are grouped into two categories--the National Insurance Schemes (NIS) and the Employed Persons Insurance Schemes (EPIS). The NIS includes the General Old Age Pensions Act, the General Widows and Orphans Benefits Act, the General Family Allowances Act, the General Exceptional Medical Expenses Act and the General Disablement Benefits Act. The NIS thus provides residents of the Netherlands with old-age, disability, and survivors insurance, family allowances, and insurance against the cost of major illness.

The EPIS includes the Unemployment Insurance Act, the Sickness Benefits Act, the Disablement Insurance Act and the Health Insurance Act. The EPIS provides employed persons with temporary and permanent disability and unemployment insurance protection. EPIS also provides comprehensive health insurance for employed and elderly persons, provided that their earned income is below a specified ceiling, as well as for their dependents. Currently, about 75 percent of the Dutch population has EPIS health insurance coverage.

While the benefit provisions of the Agreement apply only to the provisions of the NIS and EPIS dealing with old-age, survivors, and disability benefits, the coverage provisions apply to all the NIS and EPIS schemes. Thus, a worker who is exempt from Netherlands laws under Part II of the Agreement will be exempt, together with his employer, from making contributions to all Dutch social insurance schemes. A worker who is subject to Netherlands laws will be exempt only from U.S. FICA and SECA contributions.

2. The application of this Agreement shall be extended to future legislation of a Contracting State which creates new categories of beneficiaries under the laws specified in paragraph 1 unless the Competent Authority of that Contracting State notifies the Competent Authority of the other Contracting State in writing within three months of the date of the official publication of the new legislation that no such extension of the Agreement is intended.

The Agreement will automatically apply to any future U.S. or Netherlands legislation which amends the laws cited in Article 2.1. However, if future U.S. or Netherlands legislation creates new categories of beneficiaries that were not included in the laws listed in Article 2.1 as of the Agreement's effective date, the country enacting the legislation may exclude it from the scope of the Agreement by giving written notice to the other country within 3 months of the legislation's official publication.

PRINCIPAL AGREEMENT	ANNOTATIONS AND COMMENTS
3. Unless otherwise provided in this Agreement, the laws referred to in paragraph 1 shall not include any treaty or other international agreement or supranational legislation on social security which may be in force between either Contracting State and a third State, or laws or regulations promulgated for their specific implementation.	The laws to which the Agreement applies do not include treaties and other international agreements (or laws implementing them)--for example, either country's social security agreements with third countries or the European Community, or other multilateral agreements to which either country is a party. The purpose of this provision is to ensure that, in cases where a person has periods of coverage in the United States and the Netherlands, and periods of coverage in a third country with which the United States or the Netherlands has a social security agreement, periods from all three countries could not be combined to meet U.S. or Dutch benefit eligibility requirements.
4. This Agreement shall not apply to social or medical assistance schemes or to special schemes for civil servants or persons treated as such.	The Agreement does not apply to social or medical assistance programs like the Supplemental Security Income (SSI) program for the aged, blind and disabled and the Medicaid program in the United States or similar programs in the Netherlands. The Agreement also does not apply to special benefit systems applicable to civil servants and certain other categories of persons who are employed by government-owned instrumentalities.
Article 3	
Unless otherwise provided, this Agreement shall apply to all persons who are or have been subject to the laws of one or both Contracting States as well as to family members and survivors of such persons insofar as they derive their rights from these persons.	Article 3 specifies the categories of persons to whom the Agreement applies. These include persons currently working in covered employment or self-employment, as well as persons who have been credited with periods of coverage under the system of either country in the past. The Agreement also applies to family members and survivors who derive rights from such persons.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

Article 4

1. Except as provided in paragraph 2, the following persons, while residing in the territory of a Contracting State, shall be equated with nationals of that State in the application of its laws:

   (a) nationals of the other Contracting State;

   (b) refugees as defined in Article 1 of the Convention relating to the Status of Refugees of July 28, 1951, and in paragraph 1 of Article 1 of the Protocol of January 31, 1967, to the said Convention;

   (c) stateless persons as defined in Article 1 of the Convention relating to the Status of Stateless Persons of September 28, 1954;

   (d) family members and survivors, irrespective of their nationality, of the persons mentioned under subparagraphs (a), (b) and (c) with regard to rights which they derive from such persons.

Article 4.1 provides that a U.S. or Netherlands national, refugee, or stateless person, as well as a family member or survivor of such a person, who resides in one country will be accorded the same treatment regarding benefit rights under that country's social security laws as that country accords its own nationals.

For purposes of this provision, a "refugee" is a person defined as such in the 1951 Convention relating to the Status of Refugees and the 1967 Protocol to that Convention. The Convention, in conjunction with the Protocol, defines "refugee" as any person who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it."

A "stateless person", for purposes of Article 4.1, is a person defined as such in the 1951 Convention relating to the Status of Stateless Persons, i.e., "a person who is not considered as a national by any State under the operation of its laws."

2. Paragraph 1 shall not apply with regard to United States laws on compulsory coverage.

Although the coverage provisions of U.S. law that apply to U.S. residents generally do not distinguish between citizens and aliens, some exceptions exist--most notably with respect to employees of foreign governments and their instrumentalities and employees of international organizations. Article 4.2 makes clear that the equal treatment guarantee in Article 4.1, like the similar provisions in other U.S. Social Security agreements, will not affect these exceptions.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

Article 5

Unless otherwise provided in this Agreement, any provision of the laws of a Contracting State which restricts payment of invalidity, old-age or survivors cash benefits solely because a person resides outside or is absent from the territory of that Contracting State shall not be applicable to persons who reside in the territory of the other Contracting State.

Article 5 provides that where the laws of either country require that a person be resident or present in that country in order to qualify for or receive social security benefits, the person may also qualify for or receive those benefits during periods of residence in the other country. U.S. law already permits payment of benefits to U.S. and Dutch nationals who reside in either country. Article 5 would permit the United States to also pay certain third country nationals who would otherwise be subject to the alien nonpayment provisions of section 202(t) of the Social Security Act during periods of residence in the Netherlands.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

PART II

Provisions Concerning Applicable Laws

Part II is intended to eliminate dual coverage, i.e., situations in which a worker is covered under the laws of both countries with respect to the same services. In so doing, the existing coverage provisions of the laws of both countries are preserved to the greatest extent possible. The provisions in this Part are intended to eliminate dual coverage by continuing the worker's social security coverage and taxation under the system of the country to whose economy he has the more direct connection and exempting him from coverage and taxation under the other country's system.

Article 6

Unless otherwise provided in this Part, a person employed within the territory of a Contracting State shall, with respect to that employment, be subject to the laws of only that Contracting State, even if the person concerned resides in the territory of the other Contracting State, or if his employer or the offices of the employer are located in the territory of the other Contracting State.

Article 6 establishes a general territoriality rule which stipulates that ordinarily a person's employment in a country will be compulsorily covered by only that country. Thus, a person working in employment covered under the laws of both countries will remain covered under the system of the country where the employment takes place and will be exempt from coverage under the system of the other country.

Article 7

A self-employed person who resides within the territory of a Contracting State shall be subject to the laws of only that State.

Article 7 eliminates dual coverage and contributions with respect to self-employment. It provides that self-employed Dutch residents will be covered only under Netherlands laws and that U.S. residents will be covered only under U.S. laws. This provision will primarily affect self-employed U.S. citizens who reside in the Netherlands. In the absence of an agreement, such persons would be covered under Netherlands law because they reside in the Netherlands and would also be covered under U.S. law because they are U.S. citizens.

Article 8

Unless otherwise provided in Article 9, if a person resides in the territory of the Netherlands and is engaged in employment or self-employment in that territory, the person shall be subject only to Netherlands laws with respect to any employment or self-employment performed in the territory of either Contracting State.

Article 8 is an exception to the general territoriality rule of Article 6. Under Article 8, a person who works in both the Netherlands and the United States and who resides in the Netherlands will be covered under Netherlands laws for all the work performed in both countries. Under the Dutch social security system, a person who resides and works in the Netherlands may qualify for a broad range of benefits, including family allowances, health insurance, unemployment, and short-term cash sickness benefits, in addition to retirement, survivors, and disability pensions. The amount of these benefits, in many cases, is unrelated to the level of the worker's prior earnings or length of coverage. Article 8 consolidates the social security coverage and tax liability of Netherlands residents under the Dutch social security system in order to prevent situations in which a person can qualify for the entire range of Dutch social security benefits while paying minimal contributions based on only part of his total earnings.

Article 9

1. Where a person in the service of an employer having a place of business in the territory of a Contracting State is sent from that territory by that employer to work in the territory of the other Contracting State for a period not expected to exceed 5 years, the person shall remain subject to the laws of only the first Contracting State as if he were employed in the territory of the first Contracting State.

Under Article 9.1, an employee working for an employer located in the United States or the Netherlands who is temporarily transferred to work in the other country for the same employer (or, under certain conditions, a foreign affiliate of the same employer) will continue to be covered by the country from which the employee has been transferred. This rule will apply only if the transfer is expected to last 5 years or less. For purposes of measuring the length of a transfer in the case of workers who have been sent from one country to the other before the Agreement enters into force, Article 28.5 provides that any period of work before the Agreement's entry into force will be disregarded. Article 9.1 will apply even if an employee has not been sent directly to the other country but is first assigned to work in a third country.

PRINCIPAL AGREEMENT

2. Paragraph 1 shall not apply in the case of a person who is sent by an employer from the territory of the United States to the territory of the Netherlands if the person is also employed in the territory of the Netherlands by a different employer located in that territory.

3. If, under paragraph 1, a person continues to be subject to the laws of a Contracting State from whose territory he has been sent to the territory of the other Contracting State, that paragraph shall also apply by analogy to the person's family members who accompany him, unless they are themselves employed or self-employed in the territory of the latter Contracting State.

ANNOTATIONS AND COMMENTS

Article 9.2, which is an exception to Article 9.1, is similar in purpose to Article 8. Under Article 9.1, a worker who is transferred from the United States to work in the Netherlands for 5 years or less is exempt from Netherlands social security laws. Without the exception in Article 9.2, it would be possible for such a worker to take a secondary or part-time job while in the Netherlands and qualify for the broad range of Dutch social security benefits (family allowances, sick leave benefits, health insurance, etc.) based on minimal contributions assessed on the earnings from only the second job. To avoid this unintended result, Article 9.2 stipulates that the exemption from Netherlands social security laws provided by Article 9.1 to U.S.-based workers temporarily transferred to the Netherlands will not apply to any such worker who undertakes a second job for a different employer in the Netherlands. In this situation, the worker involved would be subject to Netherlands laws and exempt from U.S. laws in accordance with the territoriality rule established in Article 6.

In accordance with Article 9.3, any family member who accompanies a worker temporarily transferred from one country to the other will be subject only to the laws of the country from which the worker is transferred, unless such a family member undertakes employment or self-employment in the host country, in which case the family member will be subject to the laws of that country. As a result of this provision and the provision in Article 13, family members who accompany workers temporarily transferred from the Netherlands to the United States will continue to be considered Netherlands residents under the National Insurance Schemes. They will therefore be eligible for NIS health insurance and, if they are between ages 15 and 65, will also receive coverage credit to increase the amount of their eventual NIS old-age insurance benefit.

Under Article 9.3 and Article 13, family members who accompany workers temporarily transferred from the United States to the Netherlands will not be covered under Netherlands laws unless they work in the Netherlands and will not be considered Dutch residents for NIS benefit purposes.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

Article 10

1. (a) If a person is employed as an officer or member of the crew on an American vessel and is covered under the laws of both Contracting States, the person shall be subject to the laws of only the United States.

   (b) If a person is employed as an officer or member of the crew on a non-American vessel and is covered under the laws of both Contracting States, the person shall be subject to the laws of only the Netherlands.

Under Article 10.1, a person who is employed as an officer or crewmember of a ship and who would otherwise be covered under both U.S. and Netherlands laws will be covered only under U.S. law if the ship is an American vessel and only under Netherlands law in any other case. An American vessel is defined in section 210(c) of the U.S. Social Security Act as a vessel which is documented or numbered under U.S. law, or one which is not documented or numbered under the law of any country if its crew is employed solely by one or more U.S. citizens or residents, or corporations organized under Federal or State law.

2. If a person is employed as an officer or member of the crew on an aircraft and is covered under the laws of both Contracting States, the person shall be subject to the laws of only the Contracting State in whose territory the employer is headquartered.

Under Article 10.2, a person employed on an aircraft who would otherwise be covered under the laws of both countries will be covered only by the country in which the company employing the person is headquartered.

Article 11

Where the same activity is considered to be self-employment under the laws of one Contracting State and employment under the laws of the other Contracting State, that activity shall be treated according to the provisions of this Part concerning self-employment if the person is a resident of the first Contracting State and according to the provisions of this Part concerning employment in any other case.

Article 11 is intended to eliminate dual coverage in cases where a person's work activity is considered self-employment under the laws of one country and employment under the laws of the other and is compulsorily covered by both countries. These cases are expected to be rare. In applying the Agreement, such work will be treated as if it were employment unless the person resides in the country that considers him to be self-employed, in which case the work will be treated as self-employment.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

Article 12

Article 12 provides coverage rules applicable to employees of the U.S. and Netherlands Governments.

1. This Agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, or of the Vienna Convention on Consular Relations of April 24, 1963.

Article 12.1 is intended to make clear that, in general, the categories of persons mentioned in the Vienna Conventions on diplomatic and consular relations will not be affected by the coverage provisions of the Agreement. The Conventions, to which both the United States and the Netherlands are parties, apply to members of the staff of a diplomatic or consular mission, including the diplomatic, consular, administrative, and technical staffs; dependents of staff members; the domestic service staff of the mission; and private servants employed by members of such missions.

In general, persons mentioned in the Vienna Conventions are exempt from social security coverage and contributions under the laws of the host country unless specific arrangements have been made to waive their immunity. Persons whose immunity has been waived would be subject to the laws of the host country, including the coverage provisions of this Agreement.

2. Nationals of one of the Contracting States who are employed by the Government of that Contracting State in the territory of the other Contracting State but who are not exempt from the laws of the other Contracting State by virtue of the Conventions mentioned in paragraph 1 shall be subject to the laws of only the first Contracting State. For the purposes of this paragraph, employment by the United States Government includes employment by an instrumentality thereof.

Article 12.2 provides that if a U.S. or Dutch national is employed by his Government in the other country but is not in one of the categories mentioned in the Vienna Conventions (i.e., is not employed in a diplomatic or consular capacity), the person will be subject only to the laws of his own country.

3. The provisions of paragraph 2 shall apply by analogy to the family members accompanying the persons referred to in that paragraph who are sent by the Government of a Contracting State to the territory of the other Contracting State, unless these family members themselves are employed or self-employed in the territory of the other Contracting State.

See the annotation to article 9.3.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

Article 13

For the purposes of Netherlands laws, a person who is subject to Netherlands laws in accordance with this Part shall be considered to be resident in the territory of the Netherlands, and a person who is subject to United States laws in accordance with this Part shall be considered not to be resident in that territory.

The Dutch Employed Persons Insurance Schemes generally cover persons engaged in paid employment. The National Insurance Schemes, on the other hand, are residence based. Under the NIS, a person who resides in the Netherlands receives coverage credit toward old-age benefits whether working or not. Residents are also covered by NIS survivors insurance, temporary and long-term disability insurance, and insurance against exceptional medical expenses; they may also qualify for family allowances. A person who does not reside in the Netherlands is generally excluded from NIS coverage.

Article 13 is intended to provide consistency in the application of the two Dutch benefit systems. Under this provision, a person who is subject to Netherlands laws in accordance with the coverage rules of the Agreement will be covered by both EPIS and NIS, and a person who is subject to U.S. laws will be excluded from coverage under both Dutch programs. For example, a worker who is sent temporarily from the Netherlands to the United States and who remains subject to Netherlands laws in accordance with Article 9.1 will continue to be eligible for NIS benefits and to receive residence-based coverage credit under the NIS old-age insurance program even though he does not live in the Netherlands for the temporary period. Conversely, a worker temporarily transferred from the United States to the Netherlands who remains subject to U.S. laws will not be eligible for NIS benefits and will not receive NIS coverage credit for the period he lives in the Netherlands.

Article 14

The Competent Authorities of the two Contracting States may agree to grant an exception to the provisions of this Part in the interest of any person or category of persons, provided that the affected person shall be subject to the laws of one of the Contracting States.

Under Article 14, either country may grant an exception to the coverage rules of the Agreement if the other country agrees and the worker involved will remain subject to the coverage laws of one of the countries. Such an exception may be granted on behalf of an individual worker or on behalf of all workers employed under similar circumstances, e.g., in the same profession or for the same employer. This provision is designed to permit the Competent Authorities to correct anomalous situations that arise to the disadvantage of workers or to eliminate dual coverage in unforeseen circumstances.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

PART III

Provisions on Benefits

Chapter A

Provisions Applicable to the United States

Part III establishes the basic rules for determining entitlement to social security benefits when an individual has worked in both the United States and the Netherlands, and the rules for determining benefit amounts when entitlement is based on combined work credits. Chapter A contains rules specifically applicable to the U.S. system, and Chapter B deals with the Netherlands system.

Article 15

1. Where a person has completed at least six quarters of coverage under United States laws, but does not have sufficient quarters of coverage to satisfy the requirements for entitlement to benefits under United States laws, the agency of the United States shall take into account, for the purpose of establishing entitlement to benefits under this Article, periods of coverage which are credited under the laws of the Netherlands and which do not coincide with periods of coverage already credited under United States laws.

Article 15 establishes the rules for determining U.S. benefit eligibility and amounts in the case of persons who have periods of social security coverage in the Netherlands and at least six quarters of coverage in the United States, but who do not have enough U.S. coverage to qualify for U.S. benefits. In such cases, the Social Security Administration, in accordance with Article 15.1, will take into account any periods of coverage credited under the Netherlands work-related social security scheme (i.e., the Employed Persons Insurance Schemes), insofar as these periods do not coincide with quarters of coverage already credited under U.S. laws.

2. In applying paragraph 1, the agency of the United States shall not take into account periods of coverage which are credited under Netherlands laws solely on the basis of periods of residence in the territory of the Netherlands.

Article 15.2 makes clear that only work-related coverage credited under the Netherlands Employed Persons Insurance Schemes will be taken into account in determining U.S. benefit eligibility under Article 15.1; i.e., residence-based coverage credited under the National Insurance Schemes will not be counted.

PRINCIPAL AGREEMENT

3. In determining eligibility for benefits under paragraph 1 of this Article, the agency of the United States shall credit one quarter of coverage for every three months of coverage certified by the agency of the Netherlands; however, no quarter of coverage shall be credited for any calendar quarter already credited as a quarter of coverage under United States laws. The total number of quarters of coverage to be credited for a year shall not exceed four.

4. Where entitlement to a benefit under United States laws is established according to the provisions of paragraph 1, the agency of the United States shall compute a pro rata Primary Insurance Amount in accordance with United States laws based on (a) the person's average earnings credited exclusively under United States laws and (b) the ratio of the duration of the person's periods of coverage completed under United States laws to the duration of a coverage lifetime as determined in accordance with United States laws. Benefits payable under United States laws shall be based on the pro rata Primary Insurance Amount.

ANNOTATIONS AND COMMENTS

Article 15.3 establishes the procedure to be followed in converting Netherlands periods of coverage into equivalent periods under the U.S. system. U.S. periods of coverage are measured in terms of calendar quarters, while Netherlands periods of coverage are measured in months. Since 1978, U.S. quarters of coverage have been based on the amount of a person's annual earnings (e.g., for 1988, one quarter of coverage is credited for every $470 in earnings). Under Article 15.3, the United States will credit one quarter of coverage for every three months of Netherlands coverage, to the extent that the months do not coincide with quarters of coverage already credited under the U.S. system.

Article 15.4 describes the method of computing U.S. benefit amounts when entitlement is established based on the totalization (i.e., combination) of U.S. and Netherlands coverage. As stipulated in Article 15.1, persons who qualify for U.S. benefits based on their U.S. coverage alone are not eligible for totalization benefits from the United States.

Under the procedure outlined in Article 15.4, the amount of a worker's benefit depends on both the level of his earnings and the duration of his coverage under U.S. Social Security. This computation procedure is described in detail in regulations promulgated by the Department of Health and Human Services (20 CFR 404.1918 as revised July 2d, 1984). The first step in the procedure is to compute a theoretical benefit amount as though the worker had worked a full coverage lifetime (i.e., full career) under U.S. Social Security at the same earnings level as during his actual periods of U.S. covered work. The theoretical benefit is then prorated to reflect the proportion of a coverage lifetime completed under the U.S. program. A coverage lifetime is defined in the regulations as the number of the worker's benefit computation years, i.e., the years which must be used in determining a worker's average earnings under the regular U.S. national computation method.

PRINCIPAL AGREEMENT

5. Entitlement to a benefit from the United States which results from paragraph 1 shall terminate with the acquisition of sufficient periods of coverage under United States laws to establish entitlement to an equal or higher benefit without the need to invoke the provisions of paragraph 1.

Chapter B

Provisions Applicable to the Netherlands

ANNOTATIONS AND COMMENTS

Article 15.5 provides that when a worker who is entitled to a pro rata totalization benefit from the United States acquires additional U.S. coverage which enables him to qualify for an equal or higher benefit based on his U.S. coverage alone, the Social Security Administration will pay the regular national law benefit rather than the totalization benefit.

The benefit provisions set forth in Chapter B apply to the provisions of Netherlands social security law which govern the payment of retirement, survivors, and disability benefits. These laws include the General Old Age Pensions Act (Dutch acronym: AOW), the General Widows and Orphans Act (AWW), and the General Disablement Benefits Act (AAW), which, together with laws on family allowances and exceptional medical insurance, are known collectively as the National Insurance Schemes (NIS). Chapter B also applies to supplementary disability pensions payable under the Disablement Insurance Act (WAO). The provisions of the WAO, together with laws concerning unemployment, health and cash sickness insurance, are known as the Employed Persons Insurance Schemes (EPIS).

There are no minimum coverage requirements for old-age, survivors or disability benefits under the NIS or for the supplementary disability pension under the EPIS. To qualify for NIS survivors or disability benefits, however, a person generally must reside in the Netherlands at the time of death or disability onset. In addition, to qualify for EPIS disability benefits, a person must have been working in EPIS-covered employment at the time of disability onset. Under the Agreement, a person will be able to meet these current-residence and current-coverage requirements of Netherlands law based on periods of U.S. Social Security coverage.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

NIS old-age benefits are payable to persons at age 65--whether or not they actually retire or are covered under the system at the time they reach that age. The benefit amount is not earnings-related but is directly proportional to the person's length of coverage (which, in general, means length of Netherlands residence). A full benefit is payable if a worker has 50 years of coverage. The full benefit equals 70 percent of the statutory "net" minimum wage (i.e., the minimum wage after deductions for social security contributions and payroll taxes) in the case of unmarried pensioners and 50 percent for each member of the couple in the case of married pensioners. The benefit for a person with less than 50 years of NIS coverage equals 2 percent of the full benefit for each year of coverage from age 15 to age 65. (See the annotation to article 17.2 regarding transitional provisions applicable to persons who attained age 15 prior to 1957.)

The NIS pays survivors benefits to widows, and to orphans who have lost both of their parents. The basic eligibility requirements for widow's benefits are that (1) the widow's husband have been covered under the NIS at the time of his death, and (2) the widow be age 40 or older, have a minor child in her care, or be incapacitated for work.

NIS survivors benefits are payable in flat-rate amounts which are unrelated to the worker's level of earnings or his length of coverage. The benefit amount for widows with children under age 18 equals the net minimum wage; the amount for widows without children under age 18 equals 70 percent of the net minimum wage. The orphan's benefit amount varies from about 22 to 44 percent of the net minimum wage depending on the child's age.

The Netherlands EPIS program pays short-term cash sickness benefits to employed persons for up to 52 weeks. Benefits for long-term disability are paid in two parts. The first part, paid under the NIS in accordance with the General Disablement Benefits Act (AAW) is a flat-rate amount which is not earnings-

related. Disability benefits under the AAW are payable to persons between ages 18 and 65 who have been incapacitated for 52 weeks and are determined to be at least 25 percent disabled. To qualify, a worker must be living in the Netherlands (or if outside the Netherlands, engaged in NIS covered work) and must have earned income during the year before disability onset. Workers who are totally disabled (at least 80 percent) receive a full benefit equal to about 70 percent of the net minimum wage. Persons who are partially disabled (25 to 80 percent) receive partial benefits which vary in amount depending on the degree of disability.

The second part of the Netherlands disability benefit is payable under the EPIS in accordance with the Disablement Insurance Act (WAO) to workers under age 65 who, after 52 weeks of incapacity for work, are determined to be at least 15 percent disabled. The WAO benefit amount varies between 9 and 70 percent of the person's prior earnings according to the degree of disability. However, the WAO benefit is payable only to the extent that the benefit amount exceeds the amount of any AAW disability benefit that is payable.

Article 16

Invalidity Benefit

1. If a national of one of the Contracting States or a person designated in Article 4, paragraph 1(b) or (c), was subject to United States laws at the time when incapacity for work followed by invalidity occurred and had previously completed a total of at least 12 months of coverage under the Netherlands laws on invalidity insurance, he shall be entitled to a benefit determined in accordance with those Netherlands laws and calculated according to the rules of paragraphs 3 to 7.

2. For purposes of paragraph 1, a person shall be considered to be subject to United States laws if the person is insured for a benefit under such laws or has credit for at least 4

To be eligible for a Netherlands disability benefit, a person must have been covered under Netherlands law at the time the disability occurred. In other words, the person must generally have been residing in the Netherlands to qualify for AAW disability benefits or working in covered employment to qualify for WAO disability benefits. Article 16.1, in conjunction with article 16.2, provides that a worker with credit for at least 12 months of coverage under Netherlands laws will be deemed to have met these current coverage requirements if, at the time the worker became disabled, he or she (1) had credit for at least four quarters of U.S. coverage during the eight calendar quarters ending with the calendar quarter of disability onset or (2) was insured for a U.S. Social Security benefit. Under U.S.

PRINCIPAL AGREEMENT

quarters of coverage under such laws during a period of 8 calendar quarters ending with the calendar quarter in which the incapacity for work followed by invalidity occurred as determined in accordance with Netherlands laws.

3. The amount of the benefit referred to in paragraph 1 shall be calculated in proportion to the ratio of the total length of the periods of coverage completed by the person concerned under Netherlands laws after the age of 15 years to the length of the period between the date on which he reached the age of 15 years and the date of his incapacity for work followed by invalidity.

4. If, at the time when incapacity for work followed by invalidity occurred, the person concerned was an employed person or a person treated as such, the benefit due shall be determined according to the Disablement Insurance Act of February 18, 1966 (WAO). If not, the benefit due shall be determined according to the General Disablement Benefits Act of December 11, 1975 (AAW).

ANNOTATIONS AND COMMENTS

law, a worker is considered fully insured for a benefit if he or she has at least one quarter of coverage (earned at any time) for every calendar year after 1950 or, if later, the year in which the worker attained age 21, and prior to the year in which the worker attains age 62, dies, or becomes disabled, whichever occurs earliest.

The amount of Netherlands disability benefits (both AAW and WAO) is unrelated to the worker's length of coverage. Article 16.3 provides that in cases where eligibility for Netherlands disability benefits is established based on Article 16.1, the benefit that is payable will be prorated based on the length of time the person was covered in the Netherlands. The pro rata benefit will be computed by multiplying the benefit amount determined under Netherlands national law by the ratio of the periods of coverage credited under the Netherlands system after attainment of age 15 to the period beginning with the date on which the worker attained age 15 up to the date of disability.

Article 16.4 is intended to make clear that the amount of the Netherlands national law benefit to be prorated in the case of a person who becomes eligible for a Netherlands disability benefit based on U.S. coverage or insured status will be determined in the same way as regular disability benefits computed under Netherlands laws. Thus, the amount to be prorated will be either (1) the flat-rate AAW benefit alone if the person was not employed at the time of disability onset or (2) the AAW benefit supplemented by the earnings-related WAO benefit if the person was employed at the time of disability onset (or engaged in work that is deemed equivalent to employment under Netherlands laws, such as work as a commission salesperson, homeworker or subcontractor).

PRINCIPAL AGREEMENT	ANNOTATIONS AND COMMENTS
5. The following shall be considered as periods of coverage completed under Netherlands laws: (a) periods of coverage completed during employment under the Disablement Insurance Act of February 18, 1966 (WAO); (b) periods of coverage completed during self-employment under the General Disablement Benefits Act of December 11, 1975 (AAW); (c) periods of employment and periods treated as such completed in the Netherlands before July 1, 1967.	Article 16.5 provides that, for purposes of calculating pro rata benefits under Article 16.3, periods of Netherlands coverage include only work-related coverage completed under Netherlands laws. These include periods of coverage under the WAO program, which is an employment-related program; periods of coverage under the AAW program based on self-employment (but not AAW coverage based solely on Netherlands residence); and periods of work completed under Netherlands social security laws that pre-date the WAO and AAW.
6. In cases referred to in the first sentence of paragraph 4, when a period of coverage under the WAO coincides with a period of coverage under the AAW, only the period completed under the WAO shall be taken into account.	In most cases, a person who is employed in the Netherlands receives coverage credit under both the WAO and AAW programs simultaneously. Articles 16.6 and 16.7 are intended to avoid double crediting of the same period in computing the amount of Dutch pro rata disability benefits under Article 16.3. Under Article 16.6, in computing the pro rata benefit amount for a person who is eligible for the WAO supplement (because the person was employed at the time he or she became disabled), any periods of AAW coverage that coincide with periods of WAO coverage will be disregarded.
7. In cases referred to in the second sentence of paragraph 4, when a period of coverage under the AAW coincides with a period of coverage under the WAO, only the period completed under the AAW shall be taken into account.	Under Article 16.7, in computing the pro rata benefit amount for a person who is eligible only for the AAW benefit and no WAO supplement (because the person was not employed at the time he or she became disabled), any periods of WAO coverage that coincide with periods of AAW coverage will be disregarded.
Article 17 Old-age Pension	
1. The Netherlands agency shall determine the amount of the pension directly and exclusively on the basis of the periods of coverage completed under the Netherlands law mentioned in Article 2, paragraph 1(b)(ii).	Since there is no minimum coverage requirement for Netherlands old-age benefits, U.S. coverage will not be totalized with Netherlands coverage in determining eligibility for Netherlands old-age benefits. Since Netherlands law itself

PRINCIPAL AGREEMENT

2. Periods before January 1, 1957 during which a national of one of the Contracting States or a person described in Article 4, paragraph 1 (b) and (c) resided in the territory of the Netherlands after reaching the age of 15 years or during which, while residing in another country, the person was gainfully employed in the territory of the Netherlands shall also be considered as periods of coverage if the person does not satisfy the conditions of the Netherlands law permitting such periods to be treated for that person as periods of coverage.

3. The periods referred to in paragraph 2 shall only be taken into consideration for calculation of the old-age pension if the person concerned has resided for at least six years in the territory of one or both Contracting States after reaching the age of 59 years and only while the person is residing in the territory of either Contracting State. However, these periods shall not be taken into consideration if they coincide with periods taken into consideration for the calculation of an old-age pension under the legislation of a country other than the Netherlands.

ANNOTATIONS AND COMMENTS

provides for computing the amount of the old-age benefit in direct proportion to the length of Netherlands coverage, Article 17.1 makes clear that Netherlands old-age benefits will continue to be computed solely on the basis of coverage earned in the Netherlands.

Articles 17.2 and 17.3 deal with old-age benefits computed under certain transitional provisions of Netherlands law. Under the Dutch General Old Age Pensions Act, which entered into force in January 1957, full benefits are paid to persons who acquire 50 years of coverage between ages 15 and 65. Persons with less than 50 years of coverage receive proportionately reduced benefits. Since a person who was over age 15 in January 1957 did not have an opportunity to earn 50 years of coverage, the transitional provisions allow persons with some coverage credit under the General Old Age Pensions Act to receive additional noncontributory coverage credit for the period from their 15th birthday until January 1957. Under Netherlands law, a person must meet three conditions in order to receive the pre-1957 credit. The person must:

1) be a Netherlands national,
2) live in the Netherlands, and
3) establish that he or she lived for at least six years in the Netherlands after attaining age 59.

Articles 17.2 and 17.3 liberalize these conditions by permitting U.S. and Netherlands nationals, refugees, and stateless persons who reside in the United States or the Netherlands and who resided in either country for at least six years after attaining age 59 to be given credit for periods of residence or employment in the Netherlands that occurred before 1957 and after attainment of age 15. In accordance with Netherlands law, however, no pre-1957 credit would be granted unless the person is credited with a period of Netherlands coverage under the General Old Age Pensions Act (i.e., a period after 1956). In addition, no pre-1957 credit would be granted under these provisions for any period that has already been credited under the social security system of a country other than the Netherlands.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

Article 18

Survivors Pension

1. If a national of one of the Contracting States or a person designated in Article 4, paragraph 1(b) or (c), was subject to United States laws at the time of his death and had previously completed a total of at least 12 months of coverage under the Netherlands law on widows and orphans insurance, his widow or orphans shall be entitled to a benefit determined in accordance with Netherlands law and calculated in accordance with the rules of paragraph 3.

2. For purposes of paragraph 1, a person shall be considered to be subject to United States laws if the person is insured for a benefit under such laws or has credit for at least 4 quarters of coverage under such laws during a period of 8 calendar quarters ending with the calendar quarter in which the person died.

3. The amount of the benefit referred to in paragraph 1 shall be calculated in proportion to the ratio of the total length of the periods of coverage completed by the deceased under Netherlands law before he reached the age of 65 years to the length of the period between the date on which he reached the age of 15 years and the date of his death, but at the latest the date on which he reached the age of 65 years.

The eligibility rules for survivors benefits under the Netherlands General Widows and Orphans Act are similar to those for AAW disability benefits in that the person must have been covered at the time the contingency occurred. In other words, the person must generally have been residing in the Netherlands at the time of death. Articles 18.1 and 18.2 provide that a deceased person with credit for at least 12 months of Netherlands coverage would be deemed to meet the current coverage requirement if, at the time of death, he or she (1) had credit for at least four quarters of U.S. coverage during the 8 calendar quarters ending with the calendar quarter of death or (2) was insured for a U.S. Social Security benefit. (See the annotation to Article 16.1 for an explanation of fully insured status under U.S. law.)

The amount of Netherlands survivors benefits computed under national law is unrelated to the person's length of coverage. Article 18.3 provides that in cases where eligibility for Netherlands survivors benefits is established based on Article 18.1, the benefit that is payable will be prorated based on the length of time the person was covered in the Netherlands. The benefit will be computed by multiplying the flat-rate benefit that would ordinarily be payable under the General Widows and Orphans Act by the ratio of the periods of coverage credited under the Netherlands system to the period beginning with the date on which the person attained age 15 up to the date he or she died or attained age 65, whichever is earliest.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

PART IV

Miscellaneous Provisions

Article 19

The Competent Authorities of the two Contracting States shall:

(a) Make all necessary administrative arrangements for the application of this Agreement;

(b) Designate liaison bodies in their respective territories to facilitate the application of this Agreement;

(c) Communicate to each other information concerning the measures taken for the application of this Agreement; and

(d) Communicate to each other, as soon as possible, information concerning all changes in their respective laws which may affect the application of this Agreement.

Article 19 outlines various duties of the Competent Authorities under the Agreement. Paragraph (a) authorizes the Competent Authorities to make any administrative arrangements that may be necessary to implement and administer the Agreement. Paragraph (b) requires that they designate liaison agencies that will have primary responsibility for coordinating and administering the coverage and benefit provisions of the Agreement. (See Article 2.1 of the Administrative Arrangement for these designations.) Paragraph (c) requires the Competent Authorities to notify each other of measures they have taken unilaterally to implement the Agreement. Paragraph (d) obligates the Competent Authorities to notify each other of any changes in their respective social security laws that may affect the application of the Agreement.

Article 20

The Competent Authorities and the agencies of the Contracting States, within the scope of their respective authority, shall assist each other in implementing this Agreement.

Article 20 provides authority for the two countries to furnish each other administrative assistance in the application of the Agreement. Such assistance would include the taking of applications, and the gathering and exchanging of information relevant to claims filed under the Agreement. (See Article 9 of the Administrative Arrangement for the rules governing reimbursement of administrative expenses.)

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

Article 21

Any application, appeal or other document which according to the laws of a Contracting State must be submitted within a specified period to the Competent Authority or an agency of that Contracting State, but which is instead submitted within the same period to the Competent Authority or an agency of the other Contracting State shall be considered to have been submitted on time. In such case, the Competent Authority or agency with which the application, appeal or document has been filed shall indicate the date of receipt on the document and transmit it without delay to the liaison body of the other Contracting State.

Article 21 provides that an application, appeal, or other document which must be filed within a prescribed time limit with the Competent Authority or an agency of one country will be considered to have been filed on time if filed within such limit with the Competent Authority or an agency of the other country. The Competent Authority or agency with which the application, appeal or other document is filed must transmit it without delay to the liaison agency of the other country, indicating the date the document was received.

Article 22

1. A written application for benefits filed with an agency of one Contracting State shall protect the rights of the claimants under the laws of the other Contracting State if the applicant requests that it be considered an application under the laws of the other Contracting State.

Under Article 22.1, a written application submitted to the agency of one country will protect a claimant's right to benefits under the laws of the other country as if the application had been presented in the other country, provided the applicant expresses an intent to file for benefits from the other country when the application is filed.

2. If an applicant has filed a written application for benefits with the agency of one Contracting State and has not specifically restricted the application to benefits under the laws of that State, the application shall also protect the rights of the claimants under the laws of the other Contracting State if the applicant provides information at the time of filing indicating that the person on whose record benefits are claimed has completed periods of coverage under the laws of the other Contracting State.

Because an applicant may not be fully aware of benefit rights in the other country, Article 22.2 provides that, in the absence of an expression of intent, the application will protect the claimant's rights in the other country if, at the time of filing, the applicant indicates that the person on whose record benefits are based has been covered under the social security system of the other country.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

Article 23

Where the laws of a Contracting State provide that any document which is submitted to the Competent Authority or an agency of that Contracting State shall be exempted, wholly or partly, from fees or charges, including consular and administrative fees, the exemption shall also apply to corresponding documents which are submitted to the Competent Authority or an agency of the other Contracting State in the application of this Agreement.

Article 23 provides that if the laws of one country exempt documents from fees or charges, that country must also apply the exemption with respect to documents which are sent to the other country by or on behalf of a claimant or beneficiary.

Article 24

1. The Competent Authorities and agencies of the Contracting States may correspond directly with each other and with any person wherever the person may reside whenever it is necessary for the administration of this Agreement. The correspondence may be in the English or Dutch language.

Article 24.1 authorizes direct correspondence between the Competent Authorities and agencies of the two countries and between these bodies and any person with whom they may need to communicate. The U.S. Competent Authority and agency may correspond in English, and the Netherlands Competent Authority and agencies may correspond in Dutch.

2. The Competent Authority and agencies of a Contracting State may not reject applications or other documents solely on the grounds that they are written in a foreign language, provided they are in the English or Dutch language.

Article 24.2 makes clear that the Competent Authorities and agencies of each country will not reject applications or other documents because they are in the language of the other country. The United States already accepts applications and documents without regard to the language in which they are written.

Article 25

1. Payments under this Agreement may be validly made in the currency of the Contracting State making the payment.

Benefits to be paid by a country under this Agreement may be paid in the currency of that country. This corresponds to the current practice of both countries regarding benefit payments.

2. Money transfers effected under this Agreement shall be made in accordance with any relevant agreements in force between both Contracting States at the time of transfer.

Article 25.2 makes clear that any agreements between the United States and the Netherlands which contain provisions dealing with monetary transfers will not be affected by this Agreement. Such provisions are contained in Article XII of the 1956 U.S.-Netherlands Treaty of Friendship, Commerce, and Navigation.

PRINCIPAL AGREEMENT	ANNOTATIONS AND COMMENTS
3. In case provisions designed to restrict the exchange or exportation of currencies are introduced by either Contracting State, the Governments of both Contracting States shall immediately decide on the measures necessary to insure the transfer of sums owed by either Contracting State under this Agreement.	Should either country impose restrictions on the exchange or exportation of its currency, steps will be taken to assure the payment of amounts due under the Agreement.
Article 26	
1. Disputes between the two Contracting States regarding the interpretation or application of this Agreement shall, as far as possible, be settled by the Competent Authorities.	Article 26.1 obligates the Competent Authorities to attempt to resolve any dispute between them regarding the Agreement through direct consultation or negotiation.
2. If such a dispute cannot be settled within a period of six months, either Contracting State may submit the matter to binding arbitration by an arbitral tribunal whose composition and procedure shall be agreed upon by the Contracting States. The decision of the arbitral tribunal shall be final and binding upon the Contracting States.	Article 26.2 requires both countries to establish an arbitral procedure in any case where a disagreement has not been resolved within six months by the Competent Authorities and either country requests that the matter be submitted to arbitration.
Article 27	
This Agreement may be amended in the future by supplementary agreements which, from their entry into force, shall be considered an integral part of this Agreement. Such supplementary agreements may be given retroactive effect if they so specify.	Article 27 provides that the Agreement may be amended by future supplementary agreements, and that such agreements may have retroactive effect. After a supplementary agreement becomes effective, it will thereafter be considered an integral part of the Agreement.

PRINCIPAL AGREEMENT

PART V

Transitional and Final Provisions

Article 28

1. This Agreement shall also apply to events relevant to rights under the laws of either Contracting State which occurred prior to its entry into force. However, no benefits shall be payable under this Agreement for any period prior to its entry into force, nor shall a lump-sum death benefit be payable if the person died before its entry into force. Nevertheless, periods of coverage completed before the entry into force of this Agreement shall be taken into account in determining benefit rights, except that neither State shall take into account periods of coverage which occurred prior to the earliest date for which periods of coverage may be credited under its laws.

2. Determinations made before the entry into force of this Agreement shall not affect rights arising under it.

3. The application of this Agreement shall not result in any reduction in the amount of benefits to which entitlement was established prior to its entry into force.

4. The provisions of this Agreement shall apply only to an application for benefits which is filed on or after the date this Agreement enters into force.

ANNOTATIONS AND COMMENTS

Under Article 28.1, events material to the determination of benefit rights, such as marriage, death, disability, or attainment of a certain age, which occurred prior to the effective date of the Agreement will be considered in applying the Agreement. Benefits payable as a result of the Agreement, however, will be paid only for periods beginning with the date on which the Agreement enters into force. Lump-sum death payments provided by section 202(i) of the U.S. Social Security Act will be payable under the Agreement only if the death occurs on or after the date the Agreement enters into force.

In determining benefit eligibility and amounts under the Agreement, periods of coverage occurring before the Agreement enters into force will be taken into account. However, neither country will consider periods of coverage credited prior to the earliest date for which coverage may be credited under its laws.

A decision to award or deny a claim which was rendered prior to the effective date of the Agreement will not prevent a person from claiming benefits under the Agreement.

Although it is unlikely that the provisions of this Agreement would cause any reduction in benefits, Article 28.3 guarantees that benefits which are already being paid at the time the Agreement becomes effective will not be reduced as a result of its entry into force.

Article 28.4 requires that a person claiming benefits under the Agreement file an application either on or after the date the Agreement becomes effective.

5. The period of work referred to in Article 9, paragraph 1, shall be measured no earlier than the date on which this Agreement enters into force.

Under Article 9.1, an employee who is transferred by his employer in one country to work in the other country for a period of 5 years or less will continue to be covered under the social security system of the first country and will be exempt from coverage in the host country. Article 28.5 provides that the five-year period will be measured beginning on or after the date the Agreement enters into force. Thus, for persons to whom Article 9.1 applies who were transferred to the other country before the effective date of the Agreement, that prior period will not be counted for purposes of the five-year limit.

Article 29

Both Contracting States shall notify each other in writing of the completion of their respective statutory and constitutional procedures required for the entry into force of this Agreement. This Agreement shall enter into force on the first day of the third month following the date of the last notification.

Each country will follow its own constitutional procedures for approval of the Agreement. In the United States, the Agreement must be presented to the Congress for a review period of 60 days during which at least one House of Congress has been in session, as required under section 233(e) of the U.S. Social Security Act. In the Netherlands, the Agreement, having the status of a treaty, must be ratified by Parliament. The Agreement will enter into force on the first day of the third calendar month after each Government has received formal notification of approval from the other Government.

Article 30

1. This Agreement shall remain in force and effect until the expiration of one calendar year following the year in which written notice of its termination is given by one of the Contracting States to the other Contracting State.

Article 30.1 provides for the Agreement to remain in effect until the expiration of one calendar year after the year notice of termination is given by one of the countries.

2. If this Agreement is terminated, rights regarding entitlement to or payment of benefits acquired under it shall be retained; the Contracting States shall make arrangements dealing with rights in the process of being acquired.

Article 30.2 provides that, in the event of termination of the Agreement, a person will retain benefit rights acquired before termination. Special arrangements would determine the extent to which each country would recognize benefit rights in the process of being acquired at the time of termination--for example, periods of coverage which had not yet resulted in fully insured status.

PRINCIPAL AGREEMENT

In witness whereof, the undersigned, being duly authorized thereto, have signed the present Agreement.

Done at The Hague on 8 December 1987 in duplicate in the English and Dutch languages, both texts being equally authentic.

For the Government of the United States of America:

John Shad

For the Government of the Kingdom of the Netherlands:

Hans van den Broek

ANNOTATIONS AND COMMENTS

The agreement was signed in The Hague on December 8, 1987, by the United States Ambassador to the Netherlands, John Shad, and the Netherlands Minister of Foreign Affairs, Hans van den Broek.

ADMINISTRATIVE ARRANGEMENT FOR THE IMPLEMENTATION OF THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF THE NETHERLANDS ON SOCIAL SECURITY

Pursuant to Article 19(a) of the Agreement between the United States of America and the Kingdom of the Netherlands on Social Security, concluded on 8 December 1987, the Competent Authorities:

for the United States of America,
the Secretary of Health and Human Services

for the Netherlands,
the Minister for Social Affairs and Employment

have agreed on the following provisions:

ADMINISTRATIVE ARRANGEMENT

ANNOTATIONS AND COMMENTS

CHAPTER I

General Provisions

Article 1

1. For the application of this Administrative Arrangement, "Agreement" means the Agreement between the United States of America and the Kingdom of the Netherlands on Social Security.

2. Other terms shall have the meaning given to them in the Agreement.

Article 1.1 makes clear that the term "Agreement" when used in the Administrative Arrangement means the U.S.-Netherlands Social Security Agreement.

Article 1.2 stipulates that other terms used in the Administrative Arrangement, whether or not defined in the principal U.S.-Netherlands Social Security Agreement, will have the same meaning as in the principal Agreement.

Article 2

1. The following are designated as liaison bodies, pursuant to Article 19(b) of the Agreement:

   For the United States:
   the Social Security Administration;

   For the Netherlands:

   a. as regards old-age, widows and orphans insurance:

      Sociale Verzekeringsbank (Social Insurance Bank);

   b. as regards invalidity insurance:

      Gemeenschappelijk Administratiekantoor (Joint Administration Office).

Article 2.1 designates the liaison agencies that will have primary responsibility for coordinating and administering the coverage and benefit provisions of the Agreement. The Social Security Administration (SSA) is the U.S. liaison agency. The Netherlands has two liaison agencies: The "Social Insurance Bank" with respect to old-age and survivors insurance and the "Joint Administration Office" with respect to disability insurance.

More than one liaison agency has been designated for the Netherlands due to the complex administrative structure of the Dutch social insurance system. Under Netherlands law, the Dutch National Tax Department is generally responsible for collecting the contributions that finance the National Insurance Schemes, while twenty-five semi-autonomous industrial insurance boards collect contributions for the Employed Persons Insurance Schemes. Each board represents a different sector of Dutch industry and each is composed of employer and employee representatives.

Claims for old-age and survivors benefits are adjudicated by the Social Insurance Bank headquartered in Amsterdam. Disability claims may be adjudicated by the industrial insurance boards but the boards may elect to transfer this function to a central agency called the Joint Administration Office. The majority of the boards have done so.

2. The liaison bodies of the Contracting States shall agree on joint forms and procedures necessary to implement the Agreement.

Article 2.2 authorizes and requires the U.S. and Netherlands liaison agencies to agree upon those procedures and forms that must be prepared jointly for the implementation of the Agreement and the Administrative Arrangement.

3. For the application of the Agreement, the liaison bodies may communicate directly with each other as well as with any person wherever the person may reside.

Article 2.3 authorizes direct communication between the liaison agencies of the two countries and between these agencies and any person with whom they may need to communicate.

Article 3

The Netherlands agency competent for the application of Article 16 of the Agreement shall be the Nieuwe Algemene Bedrijfsvereniging (New General Professional Association).

The 25 industrial insurance boards in the Netherlands are represented collectively by an umbrella federation called the New General Professional Association. This organization is also responsible for administering the social security disability program for those workers in the Netherlands who do not belong to a sector of industry having its own industrial insurance board. In accordance with Article 3, this Association will be responsible for adjudicating Dutch disability claims filed under the Agreement (both for the flat-rate AAW benefit and the earnings-related WAO supplement--see the annotations to Article 16 of the principal agreement).

ADMINISTRATIVE ARRANGEMENT

ANNOTATIONS AND COMMENTS

CHAPTER II

Provisions Concerning Applicable Laws

Chapter II of the Administrative Arrangement establishes procedures pursuant to Part II of the Agreement for the elimination of dual social security coverage and taxation of the same work under the systems of both the United States and the Netherlands.

Article 4

1. For the purposes of this Article, "institution" means, as regards the United States, the Social Security Administration, and, as regards the Netherlands, the Sociale Verzekeringsraad (Social Insurance Council).

Article 4.1 designates the agency in each country that will be responsible for implementing the provisions of Article 4. These agencies will be the Social Security Administration for the United States and the "Social Insurance Council" for the Netherlands. The Social Insurance Council is representative of the Netherlands Government, as well as Dutch employers and employees. Under Netherlands law, the Council is responsible for supervising the various social insurance agencies and their implementation of social security law.

2. When the laws of a Contracting State are applicable in accordance with Part II of the Agreement, the institution of that Contracting State, upon request of an employed person, the employer of that person or a self-employed person, shall issue a certificate stating that the employed person or self-employed person is subject to those laws. This certificate shall be proof that the named person is exempt from the laws on compulsory coverage of the other Contracting State.

Under Article 4.2, the agency of the country whose social security coverage laws will continue to apply to a person in accordance with Part II of the Agreement will issue a certificate to that effect when requested to do so by an employed person, the person's employer or a self-employed person. When presented to the appropriate agency or institution of the other country, the certificate will establish the basis for the exemption of the person from the coverage laws of that country. Retroactive recovery of U.S. contributions paid with respect to services for which a coverage exemption has been in effect would be subject to the time limitations for refunds of taxes in the Internal Revenue Code.

ADMINISTRATIVE ARRANGEMENT

3. When an employed person described in Article 9, paragraph 2, of the Agreement, to whom a certificate has been issued under paragraph 2 by the institution of the United States, subsequently becomes employed in the territory of the Netherlands by a different employer located in that territory, the employed person must, without delay, inform the institution of the United States. This institution shall thereupon issue an amended certificate and inform the institution of the Netherlands.

4. When Article 9, paragraph 3, or Article 12, paragraph 3, of the Agreement applies to a family member of an employed person sent from the territory of the Netherlands to the territory of the United States and that family member subsequently becomes employed or self-employed in the territory of the United States, this family member must without delay inform the institution of the Netherlands.

ANNOTATIONS AND COMMENTS

Under Article 9.1 of the Agreement, employees who are sent by their employer in the United States or the Netherlands to work for 5 years or less in the other country will be subject only to the social security laws of the country from which they have been sent. Article 9.2, however, provides that if an employee who has been sent temporarily from the United States to the Netherlands subsequently takes a second job in the Netherlands for a different employer, the employee's work in the Netherlands for both employers will be covered under Netherlands law.

Article 4.3 requires the employee in such cases to inform the U.S. Social Security Administration as soon as he or she begins working for the second employer. SSA will then issue an amended certificate terminating U.S. coverage and will notify the Social Insurance Council in the Netherlands so that the employee can be registered under the Dutch social security system.

As a result of Articles 9.3 and 12.3 of the Agreement, when a family member accompanies an employee who has been transferred to the United States and who is exempt from U.S. laws in accordance with the Agreement, the family member will also be exempt from U.S. Social Security coverage. However, if the family member performs employment or self-employment in the United States, the family member will be subject to U.S. laws.

Article 4.4 of this Administrative Arrangement requires that such a family member immediately notify the Social Insurance Council when he or she takes up employment or self-employment in the United States. The Social Insurance Council will then amend the certificate originally issued to the worker, terminating coverage for that family member under Netherlands law.

ADMINISTRATIVE ARRANGEMENT

5. The institution of the Contracting State which has issued a certificate under this Article shall send copies of it to the employed person and the employer of that person or the self-employed person and, as needed, the institution of the other Contracting State.

ANNOTATIONS AND COMMENTS

Article 4.5 requires the U.S. and Dutch agencies to send a copy of each certificate they issue to both the employer and employee, or to the self-employed person, and to the agency of the other country if it so requests.

REPORT TO CONGRESS
ON THE FINANCIAL EFFECT
OF THE U.S.-NETHERLANDS SOCIAL SECURITY AGREEMENT

The following tables present estimates on the effects of the proposed U.S.-Netherlands social security agreement on the income and expenditures of both countries' social security programs and the number of people who will be affected by the agreement. The estimates are based on the assumption that the agreement will become effective on October 1, 1988.

Table 1 shows the estimated additional costs that would accrue to each country's system as a result of the agreement. These costs would occur because (1) each country would pay additional benefits to certain people who have worked in both the United States and the Netherlands but who could not qualify for benefits from one or both without the agreement, and (2) each country would lose social security tax income from workers who were previously required to contribute to both systems for the same work but who would contribute only to one system under the agreement.

Table 2 shows the number of people who would become eligible for a partial OASDI benefit from the United States or the Netherlands under the agreement. Also shown in Table 2 is the number of employees in each country who, along with their employers, would no longer be subject to dual Social Security coverage and taxation.

ADMINISTRATIVE ARRANGEMENT

ANNOTATIONS AND COMMENTS

CHAPTER III

Provisions on Benefits

Article 5

1. The agency of the Contracting State with which an application for benefits is first filed in accordance with Article 22 of the Agreement shall inform the appropriate agency of the other Contracting State of this fact without delay, either directly or by way of the liaison body, and provide such evidence and other documentation available to it as may be necessary for the agency of the other Contracting State to complete action on the claim.

2. The agency of a Contracting State which receives an application that was first filed with an agency of the other Contracting State shall without delay provide the latter agency, either directly or by way of the liaison body of the other Contracting State, with such evidence and other available information as may be required to complete action on the claim.

3. The agency of the Contracting State with which an application for benefits has been filed shall verify the accuracy of the information pertaining to the applicant and his family members. The types of information to be verified shall be agreed upon by the liaison agency.

Articles 5.1 and 5.2 outline the procedures to be followed by both countries for the exchange of pertinent information needed to process claims filed under the Agreement.

Both U.S. and Netherlands laws require that certain information about persons claiming benefits be verified (e.g., age and family relationship to the worker) before the claim can be approved. Article 5.3 provides that when a claim for benefits under the Agreement is filed in one country, the agency of that country will verify the relevant information and inform the agency of the other country of its findings. The liaison agencies will agree on the specific types of information that must be verified.

The purpose of this provision is to expedite the claims process by avoiding the duplication of effort that would result if the agencies of both countries were required to verify the same information. Although an agency may accept the findings of the other agency concerning the accuracy of information, it may at its discretion request documentary evidence to support those findings.

ADMINISTRATIVE ARRANGEMENT

ANNOTATIONS AND COMMENTS

CHAPTER IV

Miscellaneous Provisions

Article 6

In accordance with measures to be agreed upon by the liaison bodies of the Contracting States pursuant to Article 2 of this Administrative Arrangement, the agency of one Contracting State shall, upon request of the liaison body of the other Contracting State, furnish available information relating to the claim of any specified individual for the purpose of administering the Agreement.

Article 6 provides that the agency of one country may, upon request, furnish claims-related information to the agency of the other country. Such information will be furnished in accordance with procedures which will be agreed upon by the liaison agencies and which will be consistent with the governing statutes of both countries.

Article 7

Copies of documents which are certified as true and exact copies by the agency of one Contracting State shall be accepted as true and exact copies by the agency of the other Contracting State, without further certification. When applying its laws, the agency of each Contracting State shall be the final judge of the probative value of the evidence submitted to it from whatever source.

If the agency of one country certifies that a copy of a document it furnishes to the agency of the other country is a true and exact copy of an original document, the other country will accept this certification. However, the agency of each country will remain the final judge of the probative value of any documents submitted to it.

Article 8

The institutions designated in Article 4 of this Administrative Arrangement shall exchange statistics on the number of certificates issued under the said Article and on the payments made to beneficiaries under the Agreement. These statistics shall be furnished annually in a form to be agreed upon.

Article 8 provides for an exchange of statistics concerning the number of coverage certificates issued by each country pursuant to Article 4.2 of this Administrative Arrangement, and the benefits paid by each under the Agreement.

Article 9

1. Where administrative assistance is requested under Article 20 of the Agreement, expenses other than regular personnel and operating costs of the agencies providing the assistance shall be reimbursed.

In accordance with Article 20 of the Agreement, the agencies of the two countries will provide each other with such administrative assistance as may be necessary to implement the provisions of the Agreement. Article 9 of this Administrative Arrangement indicates the types of assistance which will be provided without cost and the types which will be provided on a reimbursable basis.

Under Article 9.1, expenses incurred in responding to requests for administrative assistance that require an agency to go outside its own organization to provide the assistance, such as hiring interpreters or conducting special field investigations, will be paid by the agency that makes the request. Expenses for regular personnel and operating costs will not be reimbursed.

2. Upon request, the agency of either Contracting State shall furnish without expense to the agency of the other Contracting State any medical information and documentation in its possession relevant to the disability of the claimant or beneficiary.

When one agency requests medical information from the other agency, the latter will provide the requesting agency any pertinent medical information it has in its posssession free of charge.

3. An agency of a Contracting State may require a claimant or beneficiary who is present in the territory of the other Contracting State to undergo a medical examination in the territory of either Contracting State.

Article 9.3 stipulates that an agency in one country may require a claimant or beneficiary who is in the other country to undergo a medical examination in the other country. Under Netherlands national law, a person living outside the Netherlands must ordinarily return to the Netherlands to undergo any medical examinations that may be required in connection with a claim for Dutch disability benefits. Article 9.3 is intended to liberalize this requirement by permitting Dutch disability claimants in the United States to undergo such examinations in the United States.

4. Amounts owed under paragraph 1 shall be reimbursed upon presentation of a detailed statement of expenses.

In order to receive reimbursement for the cost of administrative assistance, the agency which provides the assistance must furnish the requesting agency with a detailed statement of expenses.

ADMINISTRATIVE ARRANGEMENT

ANNOTATIONS AND COMMENTS

Article 10

Unless authorized by the national statutes of a Contracting State, information about an individual which is transmitted in accordance with the Agreement or this Administrative Arrangement shall be used exclusively for purposes of implementing the Agreement. Such information received by an agency, a liaison body or an institution of a Contracting State shall be governed by the national statutes of that Contracting State for the protection of privacy and confidentiality of personal data.

Both the United States and the Netherlands have statutes that provide strict safeguards for maintaining the confidentiality of information pertaining to individuals that is in the possession of their respective Governments. In the United States, these statutes include the Freedom of Information Act, the Privacy Act, the Tax Reform Act of 1976, the Government in the Sunshine Act, and pertinent provisions of the Social Security Act and other related statutes. Article 10 provides that personal information pertaining to an individual which one country furnishes to the other under the Agreement will be protected in accordance with the applicable provisions of the other country's privacy and confidentiality laws.

Article 11

This Administrative Arrangement shall enter into force on the date of entry into force of the Agreement and shall have the same period of validity.

This Administrative Arrangement will enter into force on the same date as the Agreement and will remain in effect for the same period as the Agreement.

Done at The Hague on 8 December 1987 in duplicate in the English and Dutch languages, both texts being equally authentic.

For the Competent Authority of the United States of America:

John Shad

For the Competent Authority of the Kingdom of the Netherlands:

Louw de Graaf

The administrative arrangement was signed in The Hague on December 8, 1987, by the United States Ambassador to the Netherlands, John Shad, and the State Secretary of the Netherlands Ministry of Social Affairs and Employment, Louw de Graaf.

Table 1.--Estimated additional costs to the U.S. and Dutch Social Security systems under a proposed totalization agreement between the two countries

(In millions)

	1989	1990	1991	1992	1993
Additional costs to the U.S. Social Security system:					
Increase in OASDI benefit payments	(1/)	(1/)	(1/)	(1/)	$1
Reduction in OASDHI tax contributions	$1	$2	$3	$3	3
Total	1	2	3	3	4
Additional costs to the Dutch Social Security system:					
Increase in benefit payments	(1/)	(1/)	(1/)	(1/)	1
Reduction in tax contributions	5	8	9	10	10
Total	5	8	9	10	11

1/ Less than $500,000.

Table 2.--Estimated number of persons who would be affected by a proposed totalization agreement between the United States and the Netherlands

	Fiscal Year				
	1989	1990	1991	1992	1993
Number of persons receiving a totalized OASDI benefit based in part on employment in the Netherlands under the proposed agreement (in current-pay status at mid-year)	(1/)	(1/)	(1/)	(1/)	100
Number of persons receiving a totalized Dutch benefit based in part on employment in the United States under the proposed agreement (in current-pay status at mid-year)	(1/)	(1/)	(1/)	(1/)	100
Number of U.S. employees in the Netherlands who, along with their employers, would no longer make tax contributions during the year to the Dutch social security system	300	450	525	525	525
Number of Dutch employees in the United States who, along with their employers, would no longer make tax contributions to the OASDHI Trust Funds	250	375	450	450	450

1/ Fewer than 50.